

City of Tomball

Storm Water Management Program

For Compliance with TXR040000

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Appendix A General Permit for Small Municipal Separate Storm Sewer Systems to Discharge Under the Texas Pollutant Discharge Elimination System, Permit No. TXR040000, December 13, 2013

Appendix B City of Tomball Ordinances

Acronyms and Abbreviations

BMP	Best Management Practices
CFR	U.S. Code of Federal Regulations
CWA	Clean Water Act
EPA	Environmental Protection Agency
GIS	Geographic Information System
GPS	Global Positioning System
MCM	Minimum Control Measure
MEP	Maximum Extent Practicable
MS4	Municipal Separate Storm Sewer System
NOI	Notice of Intent
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and Maintenance
SWMP	Storm Water Management Plan
TCEQ	Texas Commission on Environmental Quality
TAC	Texas Administrative Code
TDA	Texas Department of Agriculture
TMDL	Total Maximum Daily Load
TPDES	Texas Pollutant Discharge Elimination System

1.0 INTRODUCTION

1.1 REGULATORY BACKGROUND

In 1972, Congress amended the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act ["CWA"]) to prohibit the discharge of any pollutant to waters of the United States from a point source unless the discharge is authorized by an National Pollutant Discharge Elimination System ("NPDES") permit. The NPDES program is designed to track point sources and requires the implementation of controls necessary to minimize the discharge of pollutants.

In 1987, Congress amended the CWA to require implementation, in two phases, of a comprehensive national program for addressing storm water discharges. The first phase of the program, commonly referred to as "Phase I," was promulgated by the U.S. Environmental Protection Agency ("EPA") on November 16, 1990 (*Federal Register*, Volume 55, Page 47,990 [55 FR 47990]). Phase I requires NPDES permits for storm water discharge from a large number of priority sources, including municipal separate storm sewer systems ("MS4's") generally serving populations of 100,000 or more and several categories of industrial activity, including construction sites that disturb five or more acres of land.

EPA promulgated the second phase of the storm water regulatory program, commonly referred to as "Phase II," on December 8, 1999 (64 FR 68722). Phase II regulations address storm water discharges from certain MS4's serving populations of less than 100,000 people (called "small MS4's"). In summary, the regulations, which may be found in Title 40, Part 122, of the Code of Federal Regulations ("CFR") (40 CFR 122), require that all small MS4 operators located in *Urbanized Areas* (as defined by the latest U.S. census) must "develop, implement and enforce a Storm Water Management Program ("SWMP") designed to reduce the discharge of pollutants from [the] MS4 to the maximum extent practicable, to protect water quality..."

EPA has delegated authority to issue MS4 storm water discharge permits to the State of Texas. Under the authority of the Texas Water Code and the CWA, the Texas Commission on Environmental Quality ("TCEQ") is the regulatory body responsible for issuing permits regulating discharges from small MS4 systems to waters of the state. On August 13, 2007 the TCEQ issued the first round general permit for small MS4s, Permit No. TXR040000, which expired on August 12, 2012.

On December 13, 2013 the TCEQ issued their new second round general permit for small MS4s. A copy of the new permit is provided in Appendix A. In summary, the second round permit requires that the City of Tomball (hereinafter, the "City") comply with a number of administrative and legal requirements and

to update, implement, and enforce a storm water management program (SWMP) designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable to protect water quality.

1.2 MS4 LEVELS

The December 13, 2013 permit imposes compliance obligations on small MS4s based on the population within the 2010 urbanized area and served by the small MS4. A four level system is defined in Part II.B.5 of the permit, which states:

- **Level 1:** Operators of traditional small MS4s that serve a population of less than 10,000 within an urbanized area;
- **Level 2:** Operators of traditional small MS4s that serve a population of at least 10,000 but less than 40,000 within an urbanized area. This category also includes all non-traditional small MS4s such as counties, drainage districts, transportation entities, military bases, universities, colleges, correctional institutions, municipal utility districts and other special districts regardless of population served within the urbanized area, unless the nontraditional MS4 can demonstrate that it meets the criteria for a waiver from permit coverage based on the population served;
- **Level 3:** Operators of traditional small MS4s that serve a population of at least 40,000 but less than 100,00 within an urbanized area;
- **Level 4:** Operators of traditional small MS4s that serve a population of 100,000 or more within an urbanized area.

The City is considered a Level 2 small MS4 under the permit. A Level 2 SWMP must address five areas, called Minimum Control Measures (“MCM”), as follows:

- Public Education, Outreach, and Involvement;
- Illicit Discharge Detection and Elimination;
- Construction Storm Water Runoff Control;
- Post-Construction Storm Water Management in New Development and Redevelopment;
and,
- Pollution Prevention/Good Housekeeping for Municipal Operations.

For each MCM the SWMP must:

- Define measurable goals that include the development of ordinances or other regulatory mechanisms, allowed by state, federal and local law, providing the legal authority necessary to implement and enforce the requirements of this permit, including information on any limitations to the legal authority;
- Define a schedule including the months and years in which the permittee will undertake required actions, including interim milestones and the frequency of the action;
- Include a summary of written procedures describing how the permittee will implement the SWMP; and,
- Include a description of a program or a plan of compliance to address discharges to impaired water bodies and Total Maximum Daily Load (TMDL) requirements.

1.3 THE PURPOSE OF THIS DOCUMENT

This document serves as the City's SWMP. It includes all selected BMP's for each of the minimum control measures, measurable goals for each BMP, the evaluation method, an implementation schedule, and a rationale statement. This document provides a clear road map for implementing stormwater quality management activities to improve runoff quality and to maintain permit compliance.

1.4 ENTITIES ASSISTING WITH THE DEVELOPMENT OF THIS DOCUMENT

The City of Tomball was assisted by R.G. Miller Engineers, a private consulting firm, in the development of this SWMP.

1.5 ORGANIZATION OF THIS DOCUMENT

This document is organized into various sections as follows:

Section 1 – Introduction: This section provides background information on the stormwater regulatory program, defines the purpose of this document, and describes document organization.

Section 2 – City Background: This section provides general information about the City, including setting and character, receiving water body conditions, form of government, legal authority, and a rationale statement for the SWMP.

Section 3 – Public Education, Outreach, and Involvement: This section describes the permit requirements, current BMPs, selected new BMP's, measurable goals, implementation schedule, legal authority, and written procedures pertaining to the Public Education, Outreach, and Involvement MCM.

Section 4 – Illicit Discharge Detection and Elimination: This section describes the permit requirements, current BMPs, selected new BMP's, measurable goals, implementation schedule, legal authority, and written procedures pertaining to the Illicit Discharge Detection and Elimination MCM.

Section 5 – Construction Site Stormwater Runoff Control: This section describes the permit requirements, current BMPs, selected new BMP's, measurable goals, implementation schedule, legal authority, and written procedures pertaining to the Construction Site Stormwater Runoff Control MCM.

Section 6 – Post Construction Stormwater Management in New Development and Redevelopment: This section describes the permit requirements, current BMPs, selected new BMP's, measurable goals, implementation schedule, legal authority, and written procedures pertaining to the Post Construction Stormwater Management in New Development and Redevelopment MCM.

Section 7 – Pollution Prevention/Good Housekeeping for Municipal Operations: This section describes the permit requirements, current BMPs, selected new BMP's, measurable goals, implementation schedule, legal authority, and written procedures pertaining to the Pollution Prevention/Good Housekeeping for Municipal Operations MCM.

Section 8 – Plan of Compliance for Discharges to Impaired Waters: This section describes the permit requirements, current BMPs, selected new BMPs, measurable goals, implementation schedule, legal authority, and written procedures pertaining to the Plan of Compliance for Discharges to Impaired Waters program.

Section 9 – Record-Keeping and Reporting: This section describes the annual reporting requirements of the permit.

Section 10 – References: This section provides references used in writing this document.

2.0 CITY BACKGROUND

2.1 SETTING AND CHARACTER

The City of Tomball is the northernmost city in Harris County, located 30 miles north of downtown Houston. It is at a higher elevation than most of Harris County and encompasses 11.93 square miles. The 2010 US Census determined the City's population to be 10,753. See Figure 2-1 for a vicinity map.

The downtown area is generally flat and sits at an elevation of about 175 feet (ft) above mean sea level (amsl). To the north the terrain slopes up and down to elevations ranging from 170 ft amsl to 230 ft amsl and reaching a low point along Spring Creek of 150 ft amsl. To the south the terrain slopes up and down to elevations ranging from 140 to 175; reaching Willow Creek to the south, at about 130 ft amsl. The northern portion of the City drains through three major channel systems, Boggs Gully (J131), J132, and J133, to Spring Creek. The southern portion of the City drains through four channels, M116, M121, M118, M124, and M125 to Willow Creek. There are seven predominant soil series within the Tomball city limits:

- **Atasco Series** consists of deep, acid, gently sloping, loamy soils on forested uplands. These soils formed in clayey sediments, mainly along natural drainageways. These soils are moderately well drained. Surface runoff is medium. Permeability is very slow, and the available water capacity is high. During wet periods these soils are saturated in the lower part of the profile for 2 to 4 months. The erosion hazard is moderate. Areas of these soils are used mainly for timber production and for woodland grazing and pasture.
- **Gessner series** consists of deep, slightly acid to moderately alkaline, nearly level, loamy soils. These soils are in low depressions of the coastal prairie. They are loamy throughout, and they formed in thick beds of unconsolidated loamy sediment. These soils are poorly drained. Surface runoff is very slow to ponded. The soils are saturated with water during winter and spring and for short periods following summer rains. Water stands on the surface in the depressions for long periods. Internal drainage is slow. Permeability is moderate, and the available water capacity is high. These soils are mainly in native pasture. Some are used for rice, and some are in urban development.
- **Hockley series** consists of deep, acid, nearly level to gently sloping, loamy soils on forested uplands. These soils have loamy upper layers and sandy clay loam lower layers that contain

plinthite. They formed in thick beds of unconsolidated loamy sediments. The soils are moderately well drained. Surface runoff is medium to slow. Internal drainage is moderately slow in the layers containing plinthite and medium above the plinthite. Permeability is moderately slow, and the available water capacity is medium. These soils are used mainly for woodland grazing, timber production, and improved pasture.

- **Kenney series** consists of deep, acid, nearly level to gently sloping, sandy soils on forested uplands. These soils have a thick sandy layer underlain by a reddish loamy layer. They formed in thick beds of unconsolidated sediment of loamy sand, sandy loam, and sandy clay loam. Kenney soils are well drained. Surface runoff is very slow. Internal drainage is rapid. Permeability is moderately rapid, and the available water capacity is low. These soils are used mainly for woodland grazing. A few areas are used for timber, improved pasture, and cultivated crops.
- **Nahatche series** consists of nearly level, loamy, stratified soils on bottom lands. These soils are on flood plains along the major streams and their tributaries. They formed in loamy alluvial sediments. These soils are subject to flooding one or more times each year for a few days to about a month. The water table is within 20 inches of the surface, mainly during the winter or early in spring. The soils are somewhat poorly drained. Surface runoff is slow, and permeability is moderate. The available water capacity is medium. These soils are used mainly for woodland grazing and wildlife habitat. A few areas are used for timber production and improved pasture.
- **Segno series** consists of deep, acid, nearly level to gently sloping, loamy soils on forested uplands. These soils have a loamy upper layer over a more clayey layer that contains plinthite. They formed in thick beds of unconsolidated loamy sediments. These soils are moderately well drained. Surface runoff is slow to medium. Internal drainage in the layers having plinthite is moderately slow. Permeability is moderately slow, and the available water capacity is medium. These soils are used mainly for woodland grazing, timber production, and improved pasture.
- **Wockley series** consists of deep, acid, nearly level, loamy soils on prairies. Pine and hardwoods have encroached in some areas. These soils have loamy upper layers and more clayey lower layers that have gray mottles and that are more than 5 percent plinthite. These soils formed in thick, loamy, unconsolidated sediments of marine origin. These soils are somewhat poorly drained. Surface runoff is slow. Permeability is moderately slow, and the available water capacity is medium. These soils are used mainly for rice and improved pasture. Some are in urban use.

(USDA, 1976)

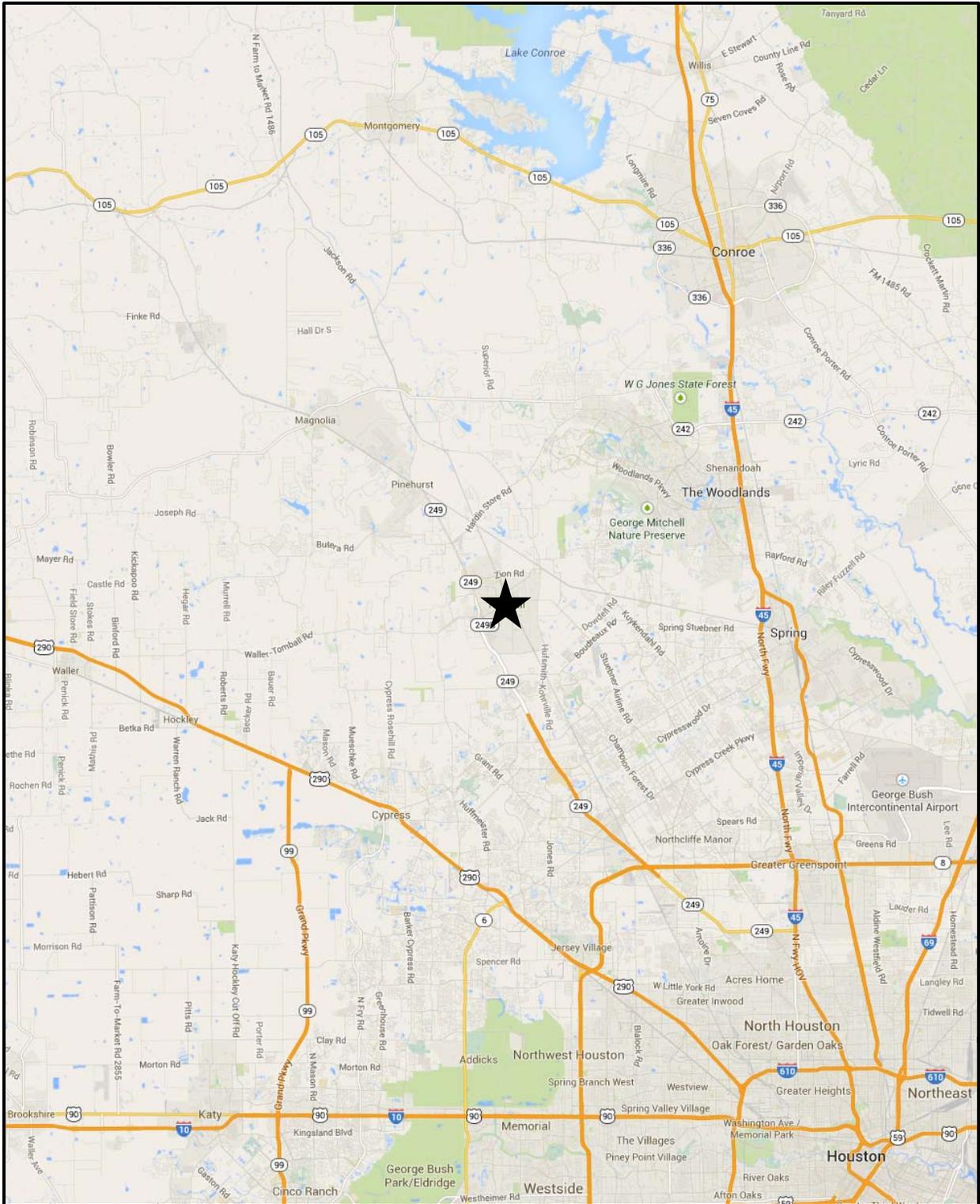


Figure 2-1 Vicinity Map

2.2 IMPAIRED RECEIVING WATERBODIES WITH AND WITHOUT TOTAL MAXIMUM DAILY LOADS

Section 303(d) of the CWA directs states to identify and prioritize waters which do not meet water quality standards – called “impaired” – and for which a total maximum daily load (“TMDL”) must be developed. A TMDL is the total amount of a pollutant that can be discharged to a water body without causing the water body to be impaired. The State of Texas and its Clean Rivers Program partners routinely monitor receiving water quality and assess receiving water conditions. This information is used to determine which waters do not meet water quality standards. Receiving waters can be categorized into three groups, as follows:

- **Waters Meeting Standards:** These are waters that are meeting surface water quality standards and that do not appear on the Section 303(d) list. The MS4 operator is only required to implement TXR040000 provisions *other than* Part II.D.4 in these watersheds. See Table 2.1 for a list of waters meeting standards that receive discharges directly from the City of Tomball MS4.
- **Impaired Waters without an EPA Approved TMDL:** These are waters that are not meeting surface water quality standards, do appear on the Section 303(d) list, but do not yet have an EPA approved TMDL. The MS4 operator is required to implement TXR040000 provisions including Part II.D.4.b. but not including Part II.D.4.a. See Table 2-2 for a list of impaired waters without an EPA approved TMDL that receive discharges directly from the City of Tomball MS4. This table is blank due to the fact that the City of Tomball does not discharge to any impaired waters without an EPA Approved TMDL.
- **Watersheds with an EPA Approved TMDL:** These are waters that are not meeting surface water quality standards, do appear on the Section 303(d) list, and do have an EPA approved TMDL. The MS4 operator is required to implement TXR040000 provisions including Part II.D.4.a. but not including Part II.D.4.b. See Table 2-3 for a list of watersheds with an EPA approved TMDL that receive discharges from the City of Tomball MS4, directly or indirectly through another MS4.

Table 2-1 List of Waters Meeting Standards Receive Storm Water Discharges Directly from the City of Tomball MS4 (TCEQ, 2013b)		
Name	Segment ID	303(d) Impairment Parameter
Boggs Gully	Unclassified	None

Table 2-2 List of Impaired Waters without an EPA Approved TMDL that Receive Stormwater Discharges Directly from the City of Tomball MS4 (TCEQ, 2013b)		
Name	Segment ID	303(d) Impairment Parameter
N/A	N/A	N/A

Table 2-3 List of Watersheds with an EPA Approved TMDL that Receive Stormwater Discharges from the City of Tomball MS4 Directly or Indirectly Through Another MS4 (TCEQ, 2014)		
Name	Segment ID	303(d) Impairment Parameter
Spring Creek	1008	Bacteria
Willow Creek	1008H	Bacteria

2.3 FORM OF GOVERNMENT

The City of Tomball is a Home Rule Charter city that operates under the “Council-Manager” form of government. The City Council is comprised of the Mayor and a five-member Council. Pursuant to its provisions and subject only to the limitations imposed by the State Constitution, the Statutes of this State and by this Charter, all powers of the City are vested in an elective Council which enacts local legislation, adopts budgets, determines policies, and appoints the City Manager, who in turn, shall be held responsible to the Council for the execution of the laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by the City Charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance, the State Constitution, or the Statutes of this State

2.4 LEGAL AUTHORITY

2.4.1 Permit Text

The following text is quoted directly from the Small MS4 General Permit, TPDES Permit No. TX040000, dated December 13, 2013. Internal references to other sections of the permit have been maintained. For additional information, please consult Appendix A which contains a copy of the entire permit.

(a) *Traditional small MS4s, such as cities*

- (1) *Within two years from the permit effective date, the permittee shall review and revise, if needed, its relevant ordinance(s) or other regulatory mechanism(s), or shall adopt a new ordinance(s) or other regulatory mechanism(s) that provide the permittee with adequate legal authority to control pollutant discharges into and from its small MS4 in order to meet the requirements of this general permit.*

- (2) *To be considered adequate, this legal authority must, at a minimum, address the following:*
 - a. *Authority to prohibit illicit discharges and illicit connections;*

 - b. *Authority to respond to and contain other releases – Control the discharge of spills, and prohibit dumping or disposal of materials other than stormwater into the small MS4;*

 - c. *Authority to require compliance with conditions in the permittee’s ordinances, permits, contracts, or orders;*

 - d. *Authority to require installation, implementation, and maintenance of control measures;*

 - e. *Authority to receive and collect information, such as stormwater plans, inspection reports, and other information deemed necessary to assess compliance with this permit, from operators of construction sites, new or redeveloped land, and industrial and commercial facilities;*

 - f. *Authority, as needed, to enter and inspect private property including facilities, equipment, practices, or operations related to stormwater discharges to the small MS4;*

 - g. *Authority to respond to non-compliance with BMPs required by the small MS4 consistent with their ordinances or other regulatory mechanism(s);*

 - h. *Authority to assess penalties, including monetary, civil, or criminal penalties; and*

 - i. *Ability to enter into interagency or interlocal agreements or other maintenance agreements, as necessary.*

2.4.2 Texas Constitution and Local Government Code

The City is a Home Rule Charter municipality created under authority granted by Article 11, Section 5 of the Texas Constitution. Authority is granted to the City by the Texas Legislature under Local Government Code, Title 2, Organization of Municipal Government, Subtitle D, General Powers of Municipalities, Chapter 51, General Powers of Municipalities, Subchapters A and B, General Provisions and Provisions Applicable to Type A General-Law Municipality as follows:

The governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule, or police regulation that:

1. *Is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and*
2. *Is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality.*

In addition they may:

1. *Adopt an ordinance, act, law, or regulation, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality as a body politic.*
2. *Sue and be sued, implead and be impleaded, and answer and be answered in any matter in any court or other place.*
3. *Contract with other persons.*
4. *Take, hold, purchase, lease, grant, or convey property located in or outside the municipality, and the governing body of the municipality may manage and control the property belonging to the municipality.*

The following City of Tomball Ordinances define the enforcement authority, prohibitions, right of entry, and enforcement procedures necessary to implement the City's Illicit Discharge Detection Elimination Program, the Construction Site Program, and the Post-Construction Program:

- **Grease and Grit Traps** -- PART II - CODE OF ORDINANCES >> Chapter 82 - UTILITIES >> ARTICLE III. - INDUSTRIAL WASTES >> Sec. 82-108.
- **Erosion and Sediment Control** -- PART II - CODE OF ORDINANCES >> Chapter 38 – Flood Damage Prevention >> ARTICLE IV. – Erosion and Sediment Control

- **Nuisances** -- PART II - CODE OF ORDINANCES >> Chapter 30 - ENVIRONMENT >> ARTICLE IV. - NUISANCES
- **Littering** -- PART II - CODE OF ORDINANCES >> Chapter 62 - SOLID WASTE >> ARTICLE I. - IN GENERAL >>Sec. 62-2 – Littering prohibited generally.

A copy of these regulations is included in Appendix B.

2.4.3 Additional Pending Authorities

As of this writing, the City does not yet have full legal authority in place to enforce certain provisions of their SWMP. During implementation of the SWMP the City will utilize the authority granted by the State Constitution and the City Charter to develop and adopt additional City Ordinances to provide full legal authority to implement and enforce the City's Illicit Discharge, Detection, and Elimination Program; the Construction Site Stormwater Runoff Control Program; and the Post-Construction Stormwater Management Program. Additional information about the planned City Ordinances are described in Sections 4.3, 5.3, and 6.3 respectively.

2.5 RATIONALE STATEMENT FOR SWMP

During the development of this SWMP, the City considered BMP's that would: protect water quality, comply with TPDES Permit No. TXR040000, and ensure program costs that would not create undue hardship on City residents and businesses. Established stormwater programs for other MS4 operators were reviewed and evaluated. A variety of BMP's for each minimum control measure were considered and compared. BMP's were ultimately selected based on an evaluation of overall effectiveness, affordability, and suitability to the City of Tomball community. All selected BMPs are consistent with approved TMDLs and Implementation Plans of the City's MS4's watershed.

The SWMP has been developed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP). The City has sought to meet the MEP standard by utilizing existing and new programs or BMP's to fulfill the requirements of this general permit. The program will allow continual adjustment and refinement through City implementation experience and feedback from all sectors of the residential and business community.

3.0 PUBLIC EDUCATION, OUTREACH, AND INVOLVEMENT

This section presents the permit requirement for the Public Education, Outreach, and Involvement Program. The section describes the existing and new BMPs necessary to implement this program. It describes the measurable goals for each BMP and the due date in months and years (or frequency) for each implementation action. Table 3-1, found at the end of this section, summarizes each BMP, implementation activities, measurable goal, and due dates or frequency of actions. Information about the State law and City ordinances that provide the legal authority necessary to implement and enforce this program and all others is provided in combined format in Section 2.4. A summary of written procedures describing how the permittee will implement this program is included in each of the BMPs described in Section 3.2 and 3.3.

3.1 PERMIT TEXT

The following text is quoted directly from the Small MS4 General Permit, TPDES Permit No. TXR040000, dated December 13, 2013. Internal references to other sections of the permit have been maintained. For additional information, please consult Appendix A which contains a copy of the entire permit.

3.1.1 Public Education and Outreach

(1) *All permittees shall develop, implement, and maintain a comprehensive stormwater education and outreach program to educate public employees, businesses, and the general public of hazards associated with the illegal discharges and improper disposal of waste and about the impact that stormwater discharges can have on local waterways, as well as the steps that the public can take to reduce pollutants in stormwater.*

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. The program must, at a minimum:

- a. *Define the goals and objectives of the program based on high priority community-wide issues (for example, reduction of nitrogen in discharges from the small MS4, promoting previous techniques used in the small MS4, or improving the quality of discharges to the Edwards Aquifer);*
- b. *Identify the target audience(s);*

- c. *Develop or utilize appropriate educational materials, such as printed materials, billboard and mass transit advertisements, signage at select locations, radio advertisements, television advertisements, and websites;*
 - d. *Determine cost effective and practical methods and procedures for distribution of materials.*
- (2) *Throughout the permit term, all permittees shall make the educational materials available to convey the program’s message to the target audience(s) at least annually.*
 - (3) *All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2. Any changes must be reflected in the annual report. Such written procedures must be maintained, either on site or in the SWMP and made available for inspection by the TCEQ.*
 - (4) *MS4 operators may partner with other MS4 operators to maximize the program and cost effectiveness of the required outreach.*

3.1.2 Public Involvement

All permittees shall involve the public, and, at minimum, comply with any state and local public notice requirements in the planning and implementation activities related to developing and implementing the SWMP, except that correctional facilities are not required to implement this portion of the MCM.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. At a minimum, all permittees shall:

- (1) *If feasible, consider using public input (for example, the opportunity for public comment, or public meetings) in the implementation of the program;*
- (2) *If feasible, create opportunities for citizens to participate in the implementation of control measures, such as stream clean-ups, storm drain stenciling, volunteer monitoring, volunteer “Adopt-A-Highway” programs, and educational activities;*
- (3) *Ensure the public can easily find information about the SWMP.*

3.2 DISCUSSION OF EXISTING BMPS

3.2.1 Spring Cleanup Week

Description and Summary of Implementation Procedures: The City will continue to conduct an annual clean-up event every spring. The event is advertised in the local newspaper and through the City's newsletter. The event advertisements are targeted to City residents, including public service employees. During the event residents drop off bulk waste items such as old furniture, mattresses, appliances (properly drained and tagged), carpeting, and small amounts of lumber and building materials. In addition to the bulk waste drop off, the public works department also provides curbside brush and limb chipping services. The City will maintain an event log identifying the type, volume, and method of disposal for all collected wastes.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 3-1.

3.2.2 Consolidated Recycling Day

Description and Summary of Implementation Procedures: The City will continue to hold the Tomball Consolidated Recycling Day every spring. The City provides a drive-through and drop-off service for electronic waste, old prescription medicine, car tires, car batteries, used motor oil and antifreeze, as well as recyclable paper, plastic, and glass. The City will maintain an event log identifying the type, volume, and method of disposal for all collected wastes.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 3-1.

3.2.3 Legal Public Notice

Description and Summary of Implementation Procedures: Public notice required under Texas law will continue to be provided when implementing SWMP provisions. This may include public hearings, public notices in the local newspaper, public notices on the City's website, or other legally required and acceptable means of providing public notice for City actions.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 3-1.

3.2.4 “Report a Concern” Online Form

Description and Summary of Implementation Procedures: The City will continue to maintain an internet-based public "Report a Concern" mechanism. The online form will be advertised, and the public will be encouraged to use the form to report observed violations of stormwater regulations for illicit discharges, construction runoff controls, or any related issue to the City via the Citizen Request Form. Public requests will be delivered to appropriate City personnel for follow-up action. The City will maintain a log of reports submitted and will document follow-up action.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 3-1.

3.3 SELECTED NEW BMP'S

3.3.1 Utility Bill Educational Message and Content

Description and Summary of Implementation Procedures: The City will develop a stormwater educational message that will be included in customer utility bills at least twice annually. The utility bill message will include a link or a reference directing customers to the Tomball website stormwater quality page where the public can access more detailed educational information. The educational information will inform residents, visitors, businesses, commercial and industrial facilities about stormwater quality issues including: discussions of storm water related water quality impacts; identification of actions citizens can take to reduce storm water related impacts; announcements of community clean up events; information for citizens regarding illicit discharges and how to report them; and other storm water related topics. The educational content will be visible at the Public Works building and City Hall. These BMP's raise public awareness to the need to reduce the discharge of pollutants. Targeted City groups include residents, city employees, visitors, businesses, and commercial and industrial facilities.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 3-1.

3.3.2 Complaint Hotline

Description and Summary of Implementation Procedures: The City will establish and operate a phone line for residents to call in questions and complaints. The phone line will field calls regarding environmental concerns, dumping activities, construction runoff, illicit discharges, and hazard and nuisance conditions. City personnel will investigate valid complaints. The Complaint Hotline will be advertised to city residents and businesses through the City newsletter, utility bill flyers, on the City website, at public events, and on stormwater educational materials and media.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 3-1.

3.3.3 Storm Drain Placarding

Description and Summary of Implementation Procedures: Storm drain plaques will be placed on selected storm water inlets in the City. Plaques provide an educational message informing viewers that the storm water system drains directly to streams and that no waste placement or dumping should occur. Placarding educates a broader group of people to include residents, visitors, public service employees, businesses, commercial and industrial facilities and construction site personnel. Placards will be located at areas that see a high volume of the target audience, but will be limited to storm drains where curb and gutter facilities exist. In areas where there are roadside ditches, no placarding will be done. A city employee will do a visual inspection of the plaques at least once per year, replace plaques as necessary. The City will place plaques at any new publicly viewable storm water inlets.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 3-1.

3.3.4 Public Involvement in SWMP Development

Description and Summary of Implementation Procedures: The City will notify the public regarding their opportunity for participation in SWMP development by posting proposed stormwater BMP's and SWMP program elements on the City website, at City Hall, and at the Public Works building. The City will provide a mechanism for the public to provide comments upon proposed elements and suggest additional recommendations. The City will evaluate public comments and incorporate suggestions into the SWMP as appropriate.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 3-1.

3.3.5 Add Stormwater Content to Lobby Slide Show

Description and Summary of Implementation Procedures: The City will incorporate stormwater information into the slide shows displayed on prominent television screens that are placed in the lobbies of City Hall and the Public Works building. Slide topics will cover actions that citizens can take to improve the quality of stormwater runoff such as: identifying and reporting illicit discharges; picking up pet waste; yard maintenance; water conservation tips; eliminating fats, oils, and greases from sewer pipes; and will publicize City clean-up and recycling events.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 3-1.

3.3.6 Add Stormwater Content to City Website

Description and Summary of Implementation Procedures: The City maintains an informational website that includes content on current programs and activities. The City will update the website to include stormwater program information. Information to be posted may include: digital copies of educational brochures; downloadable copies of stormwater forms (e.g., construction site pollution prevention plan form); public comments and City responses; City clean-up information and schedules; contact information for plan review and inspection programs; customer service phone intake number; and “Report a Concern” online form.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 3-1.

3.3.7 Stormwater Quality Give-A-Ways

Description and Summary of Implementation Procedures: The City will design and print various give-a-ways to hand out at various festivals and speaking engagements throughout the year. Give-a-way topics or themes will cover actions that citizens can take to improve the quality of stormwater runoff such as: identifying and reporting illicit discharges; picking up pet waste; yard maintenance; water conservation tips; and eliminating fats, oils, and greases from sewer pipes. Tomball Firefighters conduct fire safety talks at schools as well as hosting an open house and children’s birthday parties at the fire station. The give-a-way will be a take-home item for the children and will include important stormwater related messages as well as customer hotline information and the city web address. Give-a-ways will also be distributed at various festivals throughout the year and at the school and public libraries.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 3-1.

3.3.8 Post Stormwater Content in City Social Media

Description and Summary of Implementation Procedures: The City routinely posts information on several social media platforms. The city will post stormwater related information and links at least twice annually to these platforms. Posts will include status updates, information, and hyperlinks to stormwater content. The stormwater content will educate residents, public employees, HOAs, and businesses. Topics will include: discussions of stormwater related water quality impacts; identification of actions citizens can take

to reduce stormwater related impacts; informational articles for citizens regarding illicit discharges and how to report them; and other stormwater related topics. These BMPs will raise public awareness of the need to reduce the discharge of pollutants. Targeted groups will include residents, public employees, HOAs, businesses, and commercial and industrial facilities.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 3-1.

3.3.9 Identify Target Audiences for Public Education and Outreach Program

Description and Summary of Implementation Procedures: The City will identify the target audiences for the public education and outreach program, considering high-priority, community-wide issues, likely sources of pollution, and the entities that generate the pollutants.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 3-1.

3.3.10 Identify Goals and Objectives for Public Education and Outreach Program

Description and Summary of Implementation Procedures: The City will identify goals and objectives for the public education and outreach program, considering high-priority, community-wide issues, likely sources of pollution, and the entities that generate the pollutants.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 3-1.

**Table 3-1
BMP's for Public Education and Outreach**

BMP	Activity	Measurable Goals	Completed By (Month and Year or Frequency of Action)
EXISTING BMPS			
Spring Cleanup Week	Advertise each event in the local newspaper, the City of Tomball Newsletter, and the City website and Facebook.	Record the date of advertisement. Maintain copy of the announcements.	Two Times Per Year
	Conduct events each year.	Conduct one event each year and prepare a summary of the events. Estimate the number of households participating. Assess whether appropriate staff time was devoted to the preparation and execution of the event. Record recommendations to improve future events.	One Time Per Year
	Dispose of collected materials.	Record the type, volume and method of disposal for wastes received.	One Time Per Year
Consolidated Recycling Day	Advertise each event in the local newspaper, the City of Tomball Newsletter, City Website, Facebook, and local newspaper.	Record the date of advertisement. Maintain copy of the advertising announcements.	One Time Per Year
	Conduct event each year.	Conduct one each year and prepare a summary of the event. Estimate the number of households participating. Assess whether appropriate staff time was devoted to the preparation and execution of the event. Record recommendations to improve future events.	One Time Per Year
	Recycle or properly dispose of collected materials.	Record the type, volume and method of disposal for wastes received.	One Time Per Year
Legal Public Notice	Provide required public notice regarding specific city actions requiring notice (adoption of an ordinance, etc.).	Document publication on website and posting at city hall or other suitable method(s).	As Needed
"Report a Concern" Online Form	Maintain online form on city website.	Document reported concerns and City follow-up actions.	Ongoing
	Publicize online form and how it can be used to report stormwater pollution concerns.	Maintain log of advertising methods used to publicize hotline.	Ongoing

**Table 3-1
BMP's for Public Education and Outreach**

BMP	Activity	Measurable Goals	Completed By (Month and Year or Frequency of Action)
NEW BMPs			
Utility Bill Educational Message and Content	Develop educational message for customer utility bills that link to educational content on web and social media outlets.	Complete	September 2016
	Send out educational message on customer utility bills that link to educational content on web and social media outlets.	Record dates that messages were included in utility bills. Maintain copies of educational content posted on the web and in social media outlets.	Two Times Per Year
Complaint Hotline	Set up line.	Complete	May 2015
	Operate line.	Track number of complaints received.	Ongoing
	Evaluate public comments and incorporate suggestions into stormwater management plan.	Complete activity.	May 2016
Storm Drain Placarding (Curb Markers)	Identify and inventory inlets for storm drain placarding. Obtain bids for plaques or curb markers.	Inventory completed. Bids obtained.	May 2015
	Purchase plaques.	Complete activity.	September 2016
	Using City staff, install plaques.	Plaques 100% installed.	June 2017
Public Involvement in SWMP Development	Notify the public regarding their opportunity for participation in stormwater program development by posting proposed stormwater BMP's and SWMP program elements on City website and at the municipal building. Provide mechanism for public to provide comments upon proposed elements and suggest additional recommendations.	Record date materials posted on website and at the municipal building. Maintain copy of posted materials and received comments.	May 2014
	Evaluate public comments and incorporate suggestions into stormwater management plan.	Complete activity.	May 2014
Lobby Slide Show	Design slides and place in rotation in City Hall and Public Works lobby television slide-shows.	Complete activity. Maintain hard-copy of posted slides.	December 2015
	Update slides to include timely information about upcoming stormwater related events and information.	Maintain log of updates and hard-copies of posted slides.	Ongoing
	Create and add stormwater content to City of Tomball website and Facebook.	Complete	May 2015

Table 3-1
BMP's for Public Education and Outreach

BMP	Activity	Measurable Goals	Completed By (Month and Year or Frequency of Action)
Educational Content on City Website and Facebook page	Post updated information.	Post updates. Track visitors to website with web counter, and "likes" for Facebook page.	Two Times Per Year
Stormwater Quality Give- A-Ways	Design and print give-a-ways.	Complete activity.	May 2015
	Distribute at City facilities with routine public access, libraries, and distribute at open-houses and community events.	Print or purchase up to 500 items annually. Record number of give-a-ways distributed.	One Time Per Year
Post Stormwater Content in City Social Media	Write and post stormwater related content to city social media platforms.	Maintain a copy stormwater related posts. Record date.	Two Times Per Year
Identify Target Audiences for Public Education and Outreach Program	Considering high-priority, community-wide issues, likely sources, and entities that generate the pollutants.	Complete activity and document in memorandum to file.	December 2015
Identify Goals and Objectives of Public Education and Outreach Program	Considering high-priority, community-wide issues, likely sources define public education goals and objectives.	Complete activity and document in memorandum to file.	December 2015

4.0

ILLICIT DISCHARGE DETECTION ELIMINATION

This section presents the permit requirement for the Illicit Discharge Detection and Elimination Program. The section describes the existing and new BMPs necessary to implement this program. It describes the measurable goals for each BMP and the due date in months and years (or frequency) for each implementation action. Table 4-1, found at the end of this section, summarizes each BMP, implementation activities, measurable goal, and due dates or frequency of actions. Information about State law and City ordinances that provide the legal authority necessary to implement and enforce this program and all others is provided in combined format in Section 2.4. A summary of written procedures describing how the permittee will implement this program is included in each of the BMPs described in Section 4.2 and 4.3.

4.1 PERMIT REQUIREMENTS

The following text is quoted directly from the Small MS4 General Permit, TPDES Permit No. TXR040000, dated December 13, 2013. Internal references to other sections of the permit have been maintained. For additional information, please consult Appendix A which contains a copy of the entire permit.

4.1.1 Program Development

(1) *All permittees shall develop, implement and enforce a program to detect, investigate, and eliminate illicit discharges into the small MS4. The program must include a plan to detect and address non-stormwater discharges, including illegal dumping to the MS4 system.*

Existing permittees must assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. See also Part III.A.1(c).

The Illicit Discharge Detection and Elimination (IDDE) program must include the following:

- a. *An up-to-date MS4 map (see Part III.B.2.(c)(1));*
- b. *Methods for informing and training MS4 field staff (See Part III.B.2.(c)(2));*
- c. *Procedures for tracing the source of an illicit discharge (see Part III. B.2.(c)(5));*
- d. *Procedures for removing the source of the illicit discharge (see Part III.B.2.(c)(5));*

- e. *For Level 2, 3 and 4 small MS4s, if applicable, procedures to prevent and correct any leaking on-site sewage disposal systems that discharge into the small MS4;*
- f. *For Level 4 small MS4s, procedures for identifying priority areas within the small MS4 likely to have illicit discharges, and a list of all such areas identified in the small MS4 (See Part III.B.2.(g)(1));*

Not applicable to City which is a Level 2 MS4.

- g. *For Level 4 small MS4s, field screening to detect illicit discharges (See Part III.B.2.(g)(2)).*

Not applicable to City which is a Level 2 MS4.

- (2) *For non-traditional small MS4s, if illicit connections or illicit discharges are observed related to another operator's MS4, the permittee shall notify the other MS4 operator within 48 hours of discovery. If notification to the other MS4 operator is not practicable, then the permittee shall notify the appropriate TCEQ regional office of the possible illicit connection.*
- (3) *If another MS4 operator notifies the permittee of an illegal connection or illicit discharge to the small MS4, then the permittee shall follow the requirements specified in Part III.B.2.(c)(3).*
- (4) *All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2. Any changes must be reflected in the annual report. Such written procedures must be maintained, either on site or in the SWMP and made available for inspection by the TCEQ.*

4.1.2 Allowable Non-Stormwater Discharges

Non-stormwater flows listed in Part II.C do not need to be considered by the permittee as an illicit discharge requiring elimination unless the permittee or the TCEQ identifies the flow as a significant source of pollutants to the small MS4.

4.1.3 Requirements for All Permittees

All permittees shall include the requirements described below in Parts III.B.2(c)(1)-(6)

- (1) *MS4 mapping*

All permittees shall maintain an up-to-date MS4 map, which must be located on site and available for review by the TCEQ. The MS4 map must show at a minimum the following information:

- a. *The location of all small MS4 outfalls that are operated by the permittee and that discharge into waters of the U.S;*
- b. *The location and name of all surface waters receiving discharges from the small MS4 outfalls;*
- c. *Priority areas identified under Part III.B.2.(e)(1) if applicable.*

(2) *Education and Training*

All permittees shall implement a method for informing or training all the permittee's field staff that may come into contact with or otherwise observe an illicit discharge or illicit connection to the small MS4 as part of their normal job responsibilities. Training program materials and attendance lists must be maintained on site and made available for review by the TCEQ.

(3) *Public Reporting of Illicit Discharges and Spills*

To the extent feasible, all permittees shall publicize and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from the small MS4. The permittee shall provide a central contact point to receive reports; for example by including a phone number for complaints and spill reporting.

(4) *All permittees shall develop and maintain on site procedures for responding to illicit discharges and spills.*

(5) *Source Investigation and Elimination*

- a. *Minimum Investigation Requirements – Upon becoming aware of an illicit discharge, all permittees shall conduct an investigation to identify and locate the source of such illicit discharge as soon as practicable.*
 - (i) *All permittees shall prioritize the investigation of discharges based on their relative risk of pollution. For example, sanitary sewage may be considered a high priority discharge.*
 - (ii) *All permittees shall report to the TCEQ immediately upon becoming aware of the occurrence of any illicit flows believed to be an immediate threat to human health or the environment.*
 - (iii) *All permittees shall track all investigations and document, at a minimum, the date(s) the illicit discharge was observed; the results of the investigation; any follow-up of the investigation; and the date the investigation was closed.*

- b. *Identification and Investigation of the Source of the Illicit Discharge –All permittees shall investigate and document the source of illicit discharges where the permittees have jurisdiction to complete such an investigation. If the source of illicit discharge extends outside the permittee’s boundary, all permittees shall notify the adjacent permitted MS4 operator or TCEQ’s Field Operation Support Division according to Part III.A.3.b.*
 - c. *Corrective Action to Eliminate Illicit Discharge*
 - (i) *If and when the source of the illicit discharge has been determined, all permittees shall immediately notify the responsible party of the problem, and shall require the responsible party to perform all necessary corrective actions to eliminate the illicit discharge.*
- (6) *Inspections – The permittee shall conduct inspections, as determined appropriate, in response to complaints, and shall conduct follow-up inspections as needed to ensure that corrective measures have been implemented by the responsible party.*

4.1.4 Additional Requirements for Level 3 and 4 Small MS4s

Not applicable to City which is a Level 2 MS4.

4.1.5 Additional Requirements for Level 4 Small MS4s

Not applicable to City which is a Level 2 MS4.

4.2 DISCUSSION OF EXISTING BMPS

4.2.1 Consolidated Recycling Day

Description and Summary of Implementation Procedures: See Section 3.2.2 for a discussion of the City’s Consolidated Recycling Day.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

4.2.2 Litter Abatement

Description and Summary of Implementation Procedures: The City will continue to identify and abate litter and trash on public rights of way. The City will inspect sites identified from the complaint hotline and the online complaint form. The City will maintain a log of abatement activities.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

4.2.3 Nuisance Abatement

Description and Summary of Implementation Procedures: The City will continue to identify and abate nuisance conditions on private property. The City will inspect sites identified from the complaint hotline and the online complaint form. The City will maintain a log of abatement activities and inspections.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

4.3 SELECTED NEW BMP'S

4.3.1 Storm Sewer Map

Description and Summary of Implementation Procedures: The City is in the process of creating a storm sewer map that contains the elements required under this permit, including the location of major outfalls and the names and locations of waters of the United States that receive discharges from those outfalls. The City will use various resources to complete the map, including: construction plans, as-built drawings, and drainage maps. The map will be updated annually to reflect any changes or additions to the storm sewer system. The map will be located on site and made available for TCEQ review upon request.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

4.3.2 Complaint Hotline

Description and Summary of Implementation Procedures: See Section 3.3.2 for a discussion of the complaint hotline.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

4.3.3 "Report a Concern" Online Form

Description and Summary of Implementation Procedures: See Section 3.3.3 for a discussion of the complaint hotline.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

4.3.4 Storm Drain Placarding

Description and Summary of Implementation Procedures: See Section 3.3.4 for a discussion of the storm drain placarding BMP.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

4.3.5 Promote Harris County Household Hazardous Waste Collection Facility

Description and Summary of Implementation Procedures: The City will promote the use of the Harris County HHW facility and mobile collection trailer. Residents of Harris County who reside outside of the incorporated City of Houston limits may use the facility to properly dispose of household hazardous waste. Items accepted at the HHW facility include, but are not limited to household cleaners, yard/automobile products, pool chemicals, paint and paint related products, batteries, tires, items containing mercury (e.g. mercury thermometers, Compact Fluorescent Lights (CFLs), and fluorescent tubes), aerosols, and small and BBQ size propane cylinders. The City will utilize the City social media posts, utility bill flyers, and outreach events to promote the facility at least 4 times per

year. The City will partner with Harris County to document the amount of waste coming from the City of Tomball residents.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

4.3.6 Mitigate Illegal Dumping

Description and Summary of Implementation Procedures: The City will create a program to identify and mitigate illegal dumping sites on public rights of way. The City will inspect sites identified from the complaint hotline and the online complaint form. The City will train field employees to identify and report illegal dumping sites during the course of their regular work duties. In addition, the City will consider using technological assistance such as motion sensitive cameras in high-risk areas that are frequently used for illegal dumping. Clean-up and enforcement action will be taken as needed. The City will maintain logs of all clean-up activities and enforcement actions taken.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

4.3.7 Detect Illicit Discharge Locations

Description and Summary of Implementation Procedures: The City will establish a program to utilize existing city employees to detect illicit discharge locations during normal work activities and while driving. This includes employees from Parks and Recreation, Streets, and Utility Divisions. The City will also investigate illicit discharges from calls or website reports. The appropriate City staff will be notified of the report and will investigate the source of the discharge.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

4.3.8 Illicit Discharge Program Procedures

Description and Summary of Implementation Procedures: The City will develop program procedures that will describe how illicit discharges will be detected, investigated, and eliminated. The procedures will also describe how the City will enforce its Illicit Discharge Ordinance.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

4.3.9 Illicit Discharge Investigation, Elimination, and Enforcement

Description and Summary of Implementation Procedures: The City will establish a program to address illicit discharges. Upon identification of an illicit discharge the City will investigate the source of the discharge using City operating procedures. Once the source of the discharge has been identified the City will inform the owner or operator of the source facility that the discharge activities must cease. The City will conduct a follow up inspection and if the source facility fails to mitigate the discharge the City will implement its enforcement procedures.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

4.3.10 Post Stormwater Content in City Social Media

Description and Summary of Implementation Procedures: See Section 3.3.8 for a discussion of the social media BMP.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

4.3.11 Employee Training

Description and Summary of Implementation Procedures: The City will train field staff that may come into contact with or otherwise observe an illicit discharge or illicit connection to the small MS4 as part of their normal job responsibilities. The training program will include: the stormwater quality

management program; procedures for tracing the source of an illicit discharge and removing the source of the illicit discharge; how to detect illicit discharges; the illicit discharge program regulations and operating procedures; the construction runoff control program; and the good housekeeping program. The City will maintain training program materials and attendance lists on site and will make them available for review by the TCEQ.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

4.3.12 Illicit Discharge Ordinance

Description and Summary of Implementation Procedures: The City will draft and adopt a City Ordinance prohibiting illicit discharges to the City MS4 and illicit connections to the storm sewer system. The ordinance will define illicit discharge, illicit connections, and other relevant terms. The ordinance will establish administrative authority, define enforcement procedures and penalties, grant the City the authority to respond to and contain other releases, control the discharge of spills, and prohibit dumping or disposal of materials other than stormwater into the small MS4. The ordinance will grant the City the authority to enter and inspect private property including facilities, equipment, practices, or operations related to stormwater discharges to the small MS4; to assess penalties, including monetary, civil, or criminal penalties; and the ability to enter into interagency or interlocal agreements or other maintenance agreements, as necessary.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

4.4 LIST OF ALLOWABLE NON-STORMWATER DISCHARGES

The City has considered and determined the following occasional incidental non-storm water discharges to be insignificant contributors of pollutants to the MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources that do not violate Texas Surface Water Quality Standards, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges that do not violate Texas Surface Water Quality Standards,

and street wash water excluding street sweeper waste water. In accordance with Part II.B of the permit, no controls and conditions have been currently established for these discharges. Controls and conditions set up by the City will be documented in the annual reports submitted to the TCEQ.

**Table 4-1
BMP's for Illicit Discharge Detection and Elimination**

BMP	Activity	Measurable Goals	Completed By (Month and Year or Frequency of Action)
EXISTING BMPs			
Consolidated Recycling Day	See Table 3-1		
Litter Abatement	Perform litter abatement activities in public rights of way.	Maintain log of abatement activities.	Ongoing
Nuisance Abatement	Abate found nuisance conditions on private property. Inspect known dumping areas monthly.	Maintain log of nuisance abatement activities including dates and locations.	Ongoing
NEW BMPs			
Storm Sewer Map	Update and maintain to reflect changes to system.	Update map and maintain log to document date of revisions.	Once per Year
Complaint Hotline	See Table 3-1		
"Report a Concern" Online Form	See Table 3-1		
Storm Drain Placarding	See Table 3-1		
Promote Harris County HHW Collection Facility	Publish information about the Harris County HHW Collection Facility on the City website and in the Tomball social media posts.	Record dates of advertisements. Maintain copy of post or advertisements.	Twice per year
	Produce and handout flyers at the Consolidated Recycling Day to citizens that are dropping off recyclables.	Record number of flyers distributed. Maintain copy of flyer.	Once per year
Mitigate Illegal Dumping	Develop procedures to describe how illegal dumping sites will be identified, investigated and eliminated. The procedures will also describe how the City will enforce the Illegal Dumping ordinance.	Maintain a log of illegal dumping mitigation activities including dates and locations of follow-up actions.	Start December 2015 and then ongoing.
Detect Illicit Discharge Locations	Conduct ad-hoc detections during normal work activity and while driving within the MS4 areas in the City.	Maintain a log of detected illicit discharges and follow-up actions.	Annually
	Inspect areas or discharges reported by the public.	Maintain a log of detected illicit discharges and follow-up actions.	Annually

**Table 4-1
BMP's for Illicit Discharge Detection and Elimination**

BMP	Activity	Measurable Goals	Completed By (Month and Year or Frequency of Action)
Illicit Discharge Program Procedures	Develop program procedures to describe how illicit discharges will be detected, investigated, and eliminated. The procedures will also describe how the City will enforce its Illicit Discharge Ordinance.	Complete and document activity.	September 2017
Illicit Discharge Investigation, Elimination, and Enforcement	Investigate source of identified discharge.	Complete and document activity.	Within two weeks of finding discharge.
	Notify source facility or neighboring MS4 about discharge and the requirement to mitigate the discharge.	Complete and document activity.	Within two weeks of finding discharge.
	Initiate enforcement procedures against source facility if they fail to mitigate discharge.	Complete and document activity.	Within four weeks of notifying source facility.
Post Stormwater Content in City Social Media	See Table 3-1		
Employee Training	Train employees on illicit discharge program.	Complete and document activity. Maintain log of attendees.	Annually
Illicit Discharge Ordinance	Develop ordinance.	Complete activity.	September 2016
	Adopt ordinance.	Complete activity.	September 2017

5.0 CONSTRUCTION SITE STORM WATER RUNOFF CONTROL

This section presents the permit requirement for the Construction Site Storm Water Runoff Control Program. The section describes the existing and new BMPs necessary to implement this program. It describes the measurable goals for each BMP and the due date in months and years (or frequency) for each implementation action. Table 5-1, found at the end of this section, summarizes each BMP, implementation activities, measurable goal, and due dates or frequency of actions. Information about State law and City ordinances that provide the legal authority necessary to implement and enforce this program and all others is provided in combined format in Section 2.4. A summary of written procedures describing how the permittee will implement this program is included in each of the BMPs described in Section 5.2 and 5.3.

5.1 PERMIT REQUIREMENTS

The following text is quoted directly from the Small MS4 General Permit, TPDES Permit No. TXR040000, dated December 13, 2013. Internal references to other sections of the permit have been maintained. For additional information, please consult Appendix A which contains a copy of the entire permit.

5.1.1 Requirements and Control Measures

All permittees shall develop, implement and enforce a program requiring operators of small and large construction activities, as defined in Part I of this general permit, to select, install, implement, and maintain stormwater control measures that prevent illicit discharges to the MEP. The program must include the development and implementation of an ordinance or other regulatory mechanism, as well as sanctions to ensure compliance to the extent allowable under state, federal, and local law, to require erosion and sediment control.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term.

If TCEQ waives requirements for stormwater discharges associated with small construction from a specific site(s), the permittee is not required to enforce the program to reduce pollutant discharges from such site(s).

5.1.2 Requirements for all Permittees

All permittees shall include the requirements described below in Parts III.B.3(b)(1)-(7).

- (1) All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2. Any changes must be included in the annual report. Such written procedures must be maintained on site or in the SWMP and made available for inspection by the TCEQ.*

- (2) All permittees shall require that construction site operators implement appropriate erosion and sediment control BMPs. The permittee's construction program must ensure the following minimum requirements are effectively implemented for all small and large construction activities discharging to its small MS4.*
 - a. Erosion and Sediment Controls - Design, install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants.*

 - b. Soil Stabilization - Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed within a period of time determined by the permittee. In arid, semiarid, and drought stricken areas, as determined by the permittee, where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permittee.*

 - c. BMPs - Design, install, implement, and maintain effective BMPs to minimize the discharge of pollutants to the small MS4. At a minimum, such BMPs must be designed, installed, implemented and maintained to:*
 - (i) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters;*

 - (ii) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and*

 - (iii) Minimize the discharge of pollutants from spills and leaks.*

- d. *As an alternative to (a) through (c) above, all permittees shall ensure that all small and large construction activities discharging to the small MS4 have developed and implemented a stormwater pollution prevention plan (SWP3) in accordance with the TPDES CGP TXR150000. In arid, semiarid, and drought-stricken areas, as determined by the permittee, where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permittee. As an alternative, vegetative stabilization measures may be implemented as soon as practicable.*

(3) *Prohibited Discharges*

The following discharges are prohibited:

- a. *Wastewater from washout of concrete and wastewater from water well drilling operations, unless managed by an appropriate control;*
- b. *Wastewater from washout and cleanout of stucco, paint, from release oils, and other construction materials;*
- c. *Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and,*
- d. *Soaps or solvents used in vehicle and equipment washing;*
- e. *Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, unless managed by appropriate BMPs.*

(4) *Construction Plan Review Procedures*

To the extent allowable by state, federal, and local law, all permittees shall maintain and implement site plan review procedures that describe which plans will be reviewed as well as when an operator may begin construction. For those permittees without legal authority to enforce site plan reviews, this requirement is limited to those sites operated by the permittee and its contractors and located within the permittee's regulated area. The site plan procedures must meet the following minimum requirements:

- a. *The site plan review procedures must incorporate consideration of potential water quality impacts.*

- b. *The permittee may not approve any plans unless the plans contain appropriate site specific construction site control measures that, at a minimum, meet the requirements described in Part III. B.3.(a) or in the TPDES CGP, TXR150000.*

The permittee may require and accept a plan, such as a SWP3, that has been developed pursuant to the CGP, TXR150000.

(5) *Construction Site Inspections and Enforcement*

To the extent allowable by state, federal, and local law, all permittees shall implement procedures for inspecting large and small construction projects. Permittees without legal authority to inspect construction sites shall at a minimum conduct inspections of sites operated by the permittee or its contractors and that are located in the permittee's regulated area.

- a. *Inspections must occur at a frequency determined by the permittee, based on the evaluation of factors that are a threat to water quality, such as: soil erosion potential; site slope; project size and type; sensitivity of receiving water bodies; proximity to receiving waterbodies; non-stormwater discharges; and past record of non-compliance by the operators of the construction site.*

- b. *Inspections must occur during the active construction phase.*

- (i) *All permittees shall develop, implement, and revise as necessary, written procedures outlining the inspection and enforcement requirements. These procedures must be maintained on site or in the SWMP and be made available to TCEQ.*

- (ii) *Inspections of construction sites must, at a minimum:*

- 1. *Determine whether the site has appropriate coverage under the TPDES CGP, TXR150000. If no coverage exists, notify the permittee of the need for permit coverage.*
 - 2. *Conduct a site inspection to determine if control measures have been selected, installed, implemented, and maintained according to the small MS4's requirements.*
 - 3. *Assess compliance with the permittee's ordinances and other regulations.*

4. *Provide a written or electronic inspection report.*

- c. *Based on site inspection findings, all permittees shall take all necessary follow-up actions (for example, follow-up-inspections or enforcement) to ensure compliance with permit requirements and the SWMP. These follow-up and enforcement actions must be tracked and maintained for review by the TCEQ.*

For non-traditional small MS4s with no enforcement powers, the permittee shall notify the adjacent MS4 operator with enforcement authority or the TCEQ's Field Operations Support Division according to Part III.A.3(b).

(6) *Information submitted by the Public*

All permittees shall develop, implement and maintain procedures for receipt and consideration of information submitted by the public.

(7) *MS4 Staff Training*

All permittees shall ensure that all staff whose primary job duties are related to implementing the construction stormwater program (including permitting, plan review, construction site inspections, and enforcement) are informed or trained to conduct these activities. The training may be conducted by .the permittee or by outside trainers.

5.1.3 Additional Requirements for Level 3 and 4 Small MS4

Not applicable to City which is a Level 2 MS4.

5.2 DISCUSSION OF EXISTING BMPS

5.2.1 Erosion and Sediment Control Ordinance

Description and Summary of Implementation Procedures: The City will continue to enforce the Erosion and Sediment Control Ordinance. The City added Article IV, Erosion and Sediment Control to the City Code of Ordinances in October 2009. The purpose of the Article is to reduce erosion during the construction process by implementing and enforcing erosion and sediment control guidelines. The Article states that "No person shall be granted a site development permit for land-disturbing activity that would require the uncovering of 5,000 or more square feet without the approval of an Erosion and Sediment Control Plan by the City Engineer." No site development permit is required, however, for the following activities: any emergency activity that is immediately necessary for the protection of life, property or natural resources; existing nursery and agricultural operations conducted as a permitted main or accessory use; or any activities on a lot less than one acre in area and used for single family or two family residential purposes only. The Erosion and Sediment Control Plan is a set

of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used controlling sediment and erosion on a development site before, during and after construction. The Article contains inspection provisions as well as enforcement procedures and actions for failing to comply, including stop-work orders, revocation of permit, and fines. The City will review and update existing ordinances requiring erosion, sediment, and on-site waste controls to ensure compliance with TPDES Permit No. TXR040000. A copy of the full ordinance is included in the References section at the end of this document.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 5-1.

5.2.2 Construction Site Design Requirements

Description and Summary of Implementation Procedures: The City will continue to enforce Construction Site Design Requirements. The City requires that grading, erosion control practices, sediment control practices, and waterway crossings meet the design criteria set forth in the most recent version of the *Storm Water Management Handbook for Construction Activities, City of Houston, Harris County, and HCFCD*. The City will review the most recent version of the Handbook to ensure that it is consistent with the updated TPDES Permit No. TXR040000. In addition, the City provides The *Tomball Development Guide* and standard specification documents on the City website for erosion and sediment control structures. The City will review these documents and ensure that they are consistent with TPDES Permit No. TXR040000.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 5-1.

5.2.3 Construction Site Plan Review and Approval Procedures

Description and Summary of Implementation Procedures: The City will continue to require plan review and approval procedures for construction projects that incorporates considerations of potential water quality impacts, and is consistent with TPDES Permit No. TXR040000. The City requires contractors or developers to submit an *Erosion and Sediment Control Plan* for any land-disturbing activity that would require the uncovering of 5,000 or more square feet, except if the activity occurs on a lot less than one acre in size that is used for single family or two family residential

housing. The *Erosion and Sediment Control Plan* is a set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used controlling sediment and erosion on a development site before, during and after construction. These measures include, but are not limited to: a natural resources map; a sequence of construction of the development site; all erosion and sediment control measures; seeding mixtures and rates; and provisions for maintenance of control facilities. The City will continue to review plans for compliance with required water quality protection measures. The City will continue to require corrective action for observed violations and to pursue enforcement when necessary. All follow-up and enforcement actions will be tracked and made available for review to the TCEQ.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 5-1.

5.3 SELECTED NEW BMP'S

The new BMPs discussed below are required to implement this program.

5.3.1 "Report a Concern" Online Form

Description and Summary of Implementation Procedures: See Section 3.3.3 for a discussion of the complaint hotline.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 4-1.

5.3.2 Complaint Hotline

Description and Summary of Implementation Procedures: See Section 3.3.2 for a discussion of the complaint hotline.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 5-1.

5.3.3 Construction Site Inspections and Enforcement

Description and Summary of Implementation Procedures: The City will develop and implement site inspection procedures, checklists, and enforcement policies to govern a construction stormwater inspection and enforcement program. These procedures will be maintained onsite or in the SWMP and made available to the TCEQ upon request. The City will require corrective action for observed violations and pursue enforcement when necessary. All follow-up and enforcement actions will be logged and made available for review to the TCEQ.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 5-1.

5.3.4 Employee Training

Description and Summary of Implementation Procedures: See section 4.3.12 for a discussion of the Employee Training Program.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 5-1.

Table 5-1 BMP's for Construction Site Runoff Control			
BMP	Activity	Measurable Goals	Completed by (Month and Year) or Frequency of Action
EXISTING BMPS			
Erosion and Sediment Control Ordinance	Review all existing ordinances related to erosion and sediment and on-site waste controls. If necessary, draft revised ordinances to fulfill requirements of SWMP including enforcement provisions.	Complete activity.	September 2016
	Adopt revised ordinances.	Complete activity.	September 2017
	Provide public notice for adopted ordinances.	Complete activity.	September 2018
Construction Site Design Requirements	Evaluate existing criteria manual relating to construction site runoff and waste disposal controls.	Prepare brief memorandum documenting necessary criteria document additions or changes.	September 2016
	Revise and/or adopt existing criteria manual for use by the City.	Complete activity.	September 2017
Construction Site Plan Review and Approval Procedures	Continue to review plans for compliance with required water quality protection measures	Maintain log of plans reviewed and status. Record number of plans reviewed.	Ongoing
NEW BMPS			
"Report a Concern" Online Form	See Table 3-1		
Complaint Hotline	See Table 3-1		
Construction Site Inspections and Enforcement	Develop inspection procedures and checklist.	Complete activity	September 2016
	Develop enforcement policy.	Complete activity	September 2017
	Implement Program. Conduct site inspections and enforcement activities.	Inspect 100% of sites subject to permitting program. Maintain log of sites inspected, dates, and findings. Record number of sites inspected.	September 2018 and Ongoing
Employee Training	See Table 4-1		

6.0 POST-CONSTRUCTION STORM WATER MANAGEMENT IN NEW DEVELOPMENT AND REDEVELOPMENT

This section presents the permit requirement for the Post-Construction Storm Water Management in New Development and Redevelopment Program. The section describes the existing and new BMPs necessary to implement this program. It describes the measurable goals for each BMP and the due date in months and years (or frequency) for each implementation action. Table 6-1, found at the end of this section, summarizes each BMP, implementation activities, measurable goal, and due dates or frequency of actions. Information about the State law and City ordinances that provide the legal authority necessary to implement and enforce this program and all others is provided in combined format in Section 2.4. A summary of written procedures describing how the permittee will implement this program is included in each of the BMPs described in Section 6.2 and 6.3.

6.1.1 Post-Construction Stormwater Management Program

(1) *All permittees shall develop, implement and enforce a program, to the extent allowable under state, federal, and local law, to control stormwater discharges from new development and redeveloped sites that discharge into the small MS4 that disturb one acre or more, including projects that disturb less than one acre that are part of a larger common plan of development or sale. The program must be established for private and public development sites. The program may utilize an offsite mitigation and payment in lieu of components to address this requirement.*

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of the permit term.

(2) *All permittees shall use, to the extent allowable under state, federal, and local law and local development standards, an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects. The permittees shall establish, implement, and enforce a requirement that owners or operators of new development and redeveloped sites design, install, implement, and maintain a combination of structural and non-structural BMPs appropriate for the community and that protects water quality. If the construction of permanent structures is not feasible due to space limitations, health and safety concerns, cost effectiveness, or highway construction codes, the permittee may propose an alternative approach to TCEQ. Newly regulated permittees shall have the program element fully implemented by the end of the permit term.*

6.1.2 Requirements for all Permittees

All permittees shall include the requirements described below in Parts III.B.4.(b)(1)-(3)

- (1) *All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2. Any changes must be included in the annual report. Such written procedures must be maintained either on site or in the SWMP and made available for inspection by TCEQ.*
- (2) *All permittees shall document and maintain records of enforcement actions and make them available for review by the TCEQ.*
- (3) *Long-Term Maintenance of Post-Construction Stormwater Control Measures*

All permittees shall, to the extent allowable under state, federal, and local law, ensure the long-term operation and maintenance of structural stormwater control measures installed through one or both of the following approaches:

- a. *Maintenance performed by the permittee. See Part III.B.5*
- b. *Maintenance performed by the owner or operator of a new development or redeveloped site under a maintenance plan. The maintenance plan must be filed in the real property records of the county in which the property is located. The permittee shall require the owner or operator of any new development or redeveloped site to develop and implement a maintenance plan addressing maintenance requirements for any structural control measures installed on site. The permittee shall require operation and maintenance performed is documented and retained on site, such as at the offices of the owner or operator, and made available for review by the small MS4.*

6.1.3 Additional Requirements for Level 4 Small MS4s

Not applicable to City which is a Level 2 MS4.

6.2 DISCUSSION OF EXISTING BMPS

6.2.1 Detention Pond Maintenance Requirements

Description and Summary of Implementation Procedures: The City will continue to require builders to submit as-built drawings from the Engineer of Record to certify the detention pond system design and volume provided is in accordance to the approved building plans. The City's Pond Maintenance Requirements require the owner or operator to perform routine inspections, special inspections after major hurricane or tornado events, monthly and annual maintenance, surface maintenance as well as

surface water management system maintenance. The City requires the owner or operator to visually inspect ponds for sediment buildup and if buildup occurs, the sediment will be cleaned from the pipes. The City also requires the detention ponds be visually inspected by the owner or operator for the presence of litter and requires that any litter be removed on a continual basis. The pond O&M requirements are attached to all plan sets where ponds are required. These requirements are part of the minimum design standards for construction that is reference in the *Minimum Standards for Stormwater Drainage Design Ordinance*.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 6-1.

6.3 SELECTED NEW BMP'S

The new BMPs discussed below are required to implement this program.

6.3.1 Permanent Stormwater Quality Ordinance

Description and Summary of Implementation Procedures: The City will develop an ordinance that will require permanent stormwater quality BMPs to control stormwater discharges from new development and redeveloped sites that discharge into the small MS4 that disturb one acre or more, including projects that disturb less than one acre that are part of a larger common plan of development or sale, and will include long-term operation and maintenance ("O&M") provisions. The City will establish, implement, and enforce a requirement that owners or operators of new development and significant redevelopment sites design, install, implement, and maintain a combination of structural and non-structural BMPs appropriate for the community and that protects water quality for the life of the development. The City ordinance will include a requirement to consider space limitations, health and safety concerns, and cost effectiveness to determine the feasibility of construction of permanent structures for a particular site or type of site. It will also require an annual permitting process to ensure ongoing operations and maintenance.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 6-1.

6.3.2 Design Criteria

Description and Summary of Implementation Procedures: The City will evaluate existing design criteria information to determine what additional design information is needed to implement permanent stormwater quality controls in new development or significant redevelopment. The City will develop and adopt a new or amended design criteria addressing permanent stormwater quality controls in new development or significant redevelopment.

Legal Authority: See Section 2.4 of this document for a summary of the City of Universal City's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 6-1.

6.3.3 Plan Review and Approval Procedures for Permanent Stormwater Quality BMPs

Description and Summary of Implementation Procedures: The City will develop a *Stormwater Quality Permit* application process and permanent post-construction BMP plan review procedures applicable to new development or significant redevelopment. The plan review process will evaluate the permanent structural and non-structural BMPs proposed for the third party development to remove pollutants from stormwater runoff from the site for the life of the property. All parties seeking to develop more than 1 acre of property will be required to obtain a *Stormwater Quality Permit* from the City. The *Stormwater Quality Permit* will only be issued if the City approves the plans which illustrate the permanent structural and non-structural BMPs proposed for the third party development to remove pollutants from stormwater runoff from the site along with an *Inspection, Operations, and Maintenance Plan* which illustrates how stormwater quality BMPs will be inspected and maintained.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 6-1.

6.3.4 Inspections and Long-Term O&M of Permanent Stormwater Quality BMPs for City-Owned Facilities

Description and Summary of Implementation Procedures: The City will develop a standard operating procedure describing inspection and long term operations and maintenance of City-owned stormwater quality facilities. The standard operating procedure will require the City to develop and maintain an inventory of City-owned stormwater quality facilities, to define and implement an

inspection process for City-owned facilities, and to define operations and maintenance activities for each City-owned facility.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 6-1.

6.3.5 Inspections and Long-Term O&M of Permanent Stormwater Quality BMP for Third Party Owner/Operators

Description and Summary of Implementation Procedures: The City will create an periodic renewal process for the *Stormwater Quality Permit* (described in Section 6.3.3) which will require all completed new development sites (or significant redevelopment sites) with permanent BMPs to submit a permit renewal to the City and a certificate sealed by a professional engineer stating that the BMPs have been maintained in accord with the original *Inspection, Operations, and Maintenance Plan*. The City will maintain a log of inspections and will document enforcement actions taken.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 6-1.

Table 6-1 BMPs for Post-Construction Runoff Control			
BMP	Activity	Measurable Goals	Completed by (Month and Year) or Frequency of Action
EXISTING BMPs			
Detention Pond Maintenance	Continue to require builders to submit as-built drawings from the Engineer of Record to certify the pond system design and volume provided is in accordance to the approved building plans.	Review detention pond drawings from 100% from construction permit applications.	Ongoing
	Continue to require routine owner or operator inspections, including visual inspections for sediment and litter. Continue to require monthly and annual maintenance, surface maintenance as well as surface water management system maintenance by owner or operator.	Document enforcement actions taken.	Ongoing
NEW BMPs			
Permanent Stormwater Quality Ordinance	Create and adopt City Ordinance that requires permanent stormwater quality BMPs in new development and significant redevelopment performed by third parties as well as an annual permitting process to ensure ongoing operations and maintenance.	Complete activity.	September 2017
Design Criteria	Evaluate existing criteria manuals and materials relating to new development.	Complete activity.	September 2016
	Revise and/or adopt existing criteria manuals and materials for use by the City.	Complete activity.	September 2017
Plan Review and Approval Procedures for Permanent Stormwater Quality BMPs	Develop site plan review procedure and checklist.	Complete activity.	June 2017
	Review all third party site plans submitted for City review and approval for compliance with the City permanent stormwater quality order.	Review site plans as they are received.	January 2018.
Inspections and Long-Term O&M of Permanent Stormwater Quality BMPs for City-owned facilities	Develop standard operating procedure and inventory of City-owned permanent water quality BMPs.	Complete activity.	June 2017
	Train city employees.	Complete activity. Maintain log of attendees	September 2017
	Implement inspection program.	Document inspection findings.	Initiate by June 2018. Conduct annual inspections in future years.

Table 6-1 BMPs for Post-Construction Runoff Control			
BMP	Activity	Measurable Goals	Completed by (Month and Year) or Frequency of Action
Inspections and Long-Term O&M of Permanent Stormwater Quality BMP for Third Party Owner/Operators	Create annual renewal process for permanent BMPs.	Complete activity.	June 2017
	Train city employees.	Complete activity. Maintain log of attendees.	September 2017
	Implement annual renewal process for permanent BMPs. Enforce regulations as appropriate.	Review 100% of submitted renewal applications. Maintain log of renewal applications reviewed and status. Document enforcement actions taken.	Initiate by June 2018. Review applications on an ongoing basis. Enforce on an ongoing basis.

7.0 POLLUTION PREVENTION/GOOD HOUSEKEEPING FOR MUNICIPAL OPERATIONS

This section presents the permit requirement for the Pollution Prevention and Good Housekeeping for Municipal Operations Program. The section describes the existing and new BMPs necessary to implement this program. It describes the measureable goals for each BMP and the due date in months and years (or frequency) for each implementation action. Table 7-1, found at the end of this section, summarizes each BMP, implementation activities, measurable goal, and due dates or frequency of actions. Information about the State law and City ordinance that provide the legal authority necessary to implement and enforce this program and all others is provided in combined format in Section 2.4. A summary of written procedures describing how the permittee will implement this program is included in each of the BMPs described in Section 7.2 and 7.3.

7.1 PERMIT REQUIREMENTS

The following text is quoted directly from the Small MS4 General Permit, TPDES Permit No. TXR040000, dated December 13, 2013. Internal references to other sections of the permit have been maintained. For additional information, please consult Appendix A which contains a copy of the entire permit.

7.1.1 Program Development

(1) *All permittees shall develop and implement an operation and maintenance program, including an employee training component that has the ultimate goal of preventing or reducing pollutant runoff from municipal activities and municipally owned areas including but not limited to park and open space maintenance; street, road, or highway maintenance; fleet and building maintenance; stormwater system maintenance; new construction and land disturbances; municipal parking lots; vehicle and equipment maintenance and storage yards; waste transfer stations; and salt/sand storage locations.*

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharges of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. See also Part III.A.1.(c)

7.1.2 Requirements for All Permittees

All permittees shall include the requirements described below in Parts III.B.5.(1)-(6) in the program:

(1) *Permittee-Owned Facilities and Control Inventory*

All permittees shall develop and maintain an inventory of facilities and stormwater controls that it owns and operates within the regulated area of the small MS4. If feasible, the inventory may include all applicable permit numbers, registration numbers, and authorizations for each facility or controls. The inventory must be available for review by TCEQ and must include, but is not limited, to the following, as applicable:

- a. Composting facilities;*
- b. Equipment storage and maintenance facilities;*
- c. Fuel storage facilities;*
- d. Hazardous waste disposal facilities;*
- e. Hazardous waste handling and transfer facilities;*
- f. Incinerators;*
- g. Landfills;*
- h. Materials storage yards;*
- i. Pesticide storage facilities;*
- j. Buildings, including schools, libraries, police stations, fire stations, and office buildings;*
- k. Parking lots;*
- l. Golf courses;*
- m. Swimming pools;*
- n. Public works yards;*
- o. Recycling facilities;*
- p. Salt storage facilities;*
- q. Solid waste handling and transfer facilities;*

- r. *Street repair and maintenance sites;*
- s. *Vehicle storage and maintenance yards; and*
- t. *Structural stormwater controls.*

(2) *Training and Education*

All permittees shall inform or train appropriate employees involved in implementing pollution prevention and good housekeeping practices. All permittees shall maintain a training attendance list for inspection by TCEQ when requested.

(3) *Disposal of Waste Material*

Waste materials removed from the small MS4 must be disposed of in accordance with 30 TAC Chapters 330 or 335, as applicable.

(4) *Contractor Requirements and Oversight*

- a. *Any contractors hired by the permittee to perform maintenance activities on permittee-owned facilities must be contractually required to comply with all of the stormwater control measures, good housekeeping practices, and facility-specific stormwater management operating procedures described in Parts III B.5.(2)-(6).*
- b. *All permittees shall provide oversight of contractor activities to ensure that contractors are using appropriate control measures and SOPs. Oversight procedures must be developed before the end of the permit term and maintained on site and made available for inspection by TCEQ.*

(5) *Municipal Operation and Maintenance Activities*

a. *Assessment of permittee-owned operations*

All permittees shall evaluate operation and maintenance (O&M) activities for their potential to discharge pollutants in stormwater, including but not limited to:

- (i) *Road and parking lot maintenance may include such areas as pothole repair, pavement marking, sealing, and re-paving;*

7.1.4 Additional Requirements for Level 4 Small MS4s

Not applicable to City, which is a Level 2 MS4.

7.2 DISCUSSION OF EXISTING BMPS

7.2.1 Pesticide and Herbicide Management

Description and Summary of Implementation Procedures: The City will continue to ensure that staff responsible for handling pesticides and herbicides maintain appropriate licensing, as required by the Texas Department of Agriculture ("TDA").

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 7-1.

7.2.2 Disposal of Waste Material

Description and Summary of Implementation Procedures: The City will continue to dispose of waste materials removed from the small MS4 in accordance with 30 TAC Chapters 330 or 335, as applicable. For each disposal activity the City will document the type of waste, the amount of waste, and date, the transporter used, and the destination of the waste.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 7-1.

7.2.3 Street Sweeping

Description and Summary of Implementation Procedures: The City will continue to sweep each street within the MS4 area. Major thoroughfares, owned by the City are swept at least six times annually and all other City roads at least four times annually.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 7-1.

7.3 SELECTED NEW BMP'S

The following BMP's will be implemented:

7.3.1 Spill Response Kits

Description and Summary of Implementation Procedures: The City will maintain spill response kits at facilities with activities that have the potential of contributing pollutants to storm water. Facilities include municipal parking lots and vehicle and equipment maintenance and storage yards. The City will conduct annual audits of these facilities to ensure that: spill response kits are present, facility staff is aware of the kits, and facility staff are trained in the appropriate usage of the kits.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 7-1.

7.3.2 O&M Employee Training

Description and Summary of Implementation Procedures: The City will continue training program for City employees working in operations and maintenance jobs. The training will be augmented to include information about sources of pollutants to storm water runoff and work methods employees can take to minimize contributions to storm water pollution. Training will also include use of spill response equipment and employee safety. The City will maintain records of training events and attendees logs.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 7-1.

7.3.3 Good Housekeeping SOP Manual

Description and Summary of Implementation Procedures: The City will develop a *Good Housekeeping Standard Operating Procedure (SOP) Manual* for employees that perform activities with the potential to impact water quality. The manual will provide checklists and procedures for common municipal activities that may impact storm water quality. Municipal activities related to: equipment storage and maintenance facilities; recreational pools; fuel storage facilities; materials storage yards; pesticide storage facilities; buildings, including, police stations, fire stations, and office buildings; parking lots; swimming pools; public works yards; street repair and maintenance sites; vehicle storage and maintenance yards; and structural stormwater controls will be addressed in the manual. The manual will include a list of all municipal facilities that may impact runoff quality. The manual will also include procedures relating to operation and maintenance activities, and will be used during the O&M employee training. The City will perform an annual audit to ensure that all relevant city activities are described within the manual, and staff is familiar with the manual.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 7-1.

7.3.4 Operation and Maintenance at City Facilities

Description and Summary of Implementation Procedures: The City will develop a program to inspect and maintain City facilities (such as the City Service Centers) to reduce potential impacts from storm water runoff. Maintenance program activities will likely include picking up litter, removing oil, placing and storing materials in appropriately designated areas, etc. Operation and maintenance activities and schedules for City owned post-construction BMP's will be included in the *Good Housekeeping SOP Manual*.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 7-1.

7.3.5 Maintenance Contractor Requirements and Oversight

Description and Summary of Implementation Procedures: Contractors hired by the City to perform maintenance activities on City owned facilities will be contractually required to comply with all of the stormwater control measures, good housekeeping practices, and facility-specific stormwater management operating procedures implemented by the City. The City will provide adequate oversight of contractor activities to ensure that contractors are using appropriate control measures and standard operating procedures. Oversight procedures will be developed.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 7-1.

7.3.6 Assessment of City Facilities and Operations

Description and Summary of Implementation Procedures: The City will evaluate operation and maintenance (O&M) activities for their potential to discharge pollutants in stormwater. The following activities will be evaluated: road and parking lot maintenance such as pothole repair, pavement marking, sealing, and re-paving; bridge maintenance including areas for re-chipping, grinding, and saw cutting; cold weather operations, including application of deicing and anti-icing compounds; and right-of-way maintenance, including mowing, herbicide and pesticide application, and planting vegetation. Evaluation results will be documented in a written report.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 7-1.

7.3.7 Identify Pollutants of Concern at City Facilities

Description and Summary of Implementation Procedures: The City will identify pollutants of concern that could be discharged from City owned facilities or operations and maintenance activities. Evaluation results will be documented in a written report.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 7-1.

7.3.8 Develop Pollution Prevention Measures for City Facilities

Description and Summary of Implementation Procedures: The City will develop and implement a written pollution prevention plan for each City-owned facility that has a high potential to discharge pollutants into stormwater, except those covered by TCEQ Permit No. TXR050000. Each pollution prevention plan will include measures that will reduce the discharge of pollutants in stormwater from City-owned facilities.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 7-1.

7.3.9 Inspect City Facilities

Description and Summary of Implementation Procedures: City will visually inspect pollution prevention measures implemented at City-owned facilities at a frequency that will be defined in the facility specific pollution prevention plan. The City will maintain a log of inspections.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 7-1.

7.3.10 Maintain Structural Controls at City-Owned Facilities

Description and Summary of Implementation Procedures: The City will maintain any structural controls installed at City owned facilities at an appropriate frequency. Frequency will be defined in facility specific pollution prevention plans. Maintenance activities and requirements will defined in facility specific pollution prevention plans.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball’s legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 7-1.

7.3.11 City-Owned Facilities and Control Inventory

Description and Summary of Implementation Procedures: The City will develop and maintain an inventory of facilities and stormwater controls that the City owns and operates within the regulated area of the MS4. The inventory will include all applicable permit numbers, registration numbers, and authorizations for each facility or controls. The inventory will be available for review by TCEQ and will consider the following facilities: equipment storage and maintenance facilities; fuel storage facilities; materials storage yards; pesticide storage facilities; buildings, including police stations, fire stations, and office buildings; parking lots; swimming pools; public works yards; street repair and maintenance sites; vehicle storage and maintenance yards; wastewater treatment plans; water treatment plans; and structural stormwater controls.

Legal Authority: See Section 2.4 of this document for a summary of City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, and Due Dates or Frequency of Actions: See Table 7-1.

Table 7-1			
BMP's for Pollution Prevention/Good Housekeeping			
BMP	Activity	Measurable Goals	Completed by (Month and Year) or Frequency of Action
EXISTING BMPs			
Pesticide/Herbicide Management	Maintain pesticide and herbicide certifications for all city applicators.	Track employee certifications for all pesticide/herbicide staff.	Annually
Disposal of Waste Material	Dispose of waste materials in accordance with 30 TAC Chapters 330 or 335 as applicable.	For each disposal activity document the type of waste, the amount of the waste, the date, the transporter, and the destination.	Within one week of each disposal activity.
Street Sweeping	Sweep major thoroughfares.	Maintain log indicating date and location of areas swept.	Six Times per Year
	Sweep roads other than major thoroughfares.	Maintain log indicating date and location of areas swept.	Four Times per Year.
NEW BMPs			
Spill Response Kits	Maintain spill response kits at all City facilities with activities that may contribute pollutants to storm water. Audit facilities to verify.	Document deployment of kits at all inventoried facilities each year.	Annually
O&M Employee Training	Conduct employee training.	Maintain log of training events and attendees.	One Time Per Year
Good Housekeeping SOP Manual	Develop manual.	Complete activity.	September 2016
	Train staff. Incorporate into O&M employee training.	Complete activity.	March 2017
	Implement all good housekeeping SOPs.	Complete activity.	June 2017
	Perform annual audit to ensure that all relevant city activities are described within the manual.	Maintain log of audit date and results.	Annually
O&M at City Facilities	Inspect and maintain City facilities to reduce potential impacts from storm water runoff. (Pick-up litter, remove oil, etc.)	Record dates of inspection and identify maintenance activities performed.	Frequency of each activity outlined in detail in Good Housekeeping Rules Manual

**Table 7-1
BMP's for Pollution Prevention/Good Housekeeping**

BMP	Activity	Measurable Goals	Completed by (Month and Year) or Frequency of Action
Maintenance Contractor Requirements and Oversight	Develop new standard contract language.	Complete development of new standard contract language that includes appropriate reference to standard operating procedures (SOPs) and stormwater plans.	September 2016.
	Contractually require service providers to comply with all control measures and operational procedures.	Include standard contract language and SOPs in all new contracts.	Utilize new language in all contracts awarded after December 2016.
	Provide adequate oversight of contractor activities.	Document oversight date, activity, and person.	Within one week of each activity performed by a contractor.
Assessment of City Facilities and Operations	Evaluate operations and maintenance activities at City owned facilities and conducted in the County.	Document results in written report.	September 2016
Identify Pollutants of Concern at City Facilities	Identify pollutants of concern at City facilities.	Document results in written report.	September 2016
Develop Pollution Prevention Measures for City Facilities	Develop written pollution prevention plan for each City owned facility.	Complete Pollution Prevention Plan.	September 2017
Inspect City Facilities	Develop written inspection procedure and check list.	Complete activity.	September 2017
	Implement inspections.	Document inspections.	At frequency defined in Facility Pollution Prevention Plans.
Maintain Structural Controls and City Owned Facilities	Conduct required maintenance activities of structural controls.	Document activity.	At frequency defined in Facility Pollution Prevention Plans.
City-Owned Facilities and Control Inventory	Develop inventory of City-owned facilities and stormwater controls within MS4 area.	Complete activity	September 2017
	Update inventory of facilities and controls.	Maintain record of updates and additions to facilities and control inventory.	One Time Per Year

8.0 PLAN OF COMPLIANCE FOR DISCHARGES TO IMPAIRED WATERS

This section provides the City's plan of compliance with the requirements relating to discharges to impaired waters and to waters with approved TMDLs. This section presents the permit requirements followed by the City's plan of compliance.

8.1 DISCHARGES TO WATERS WITHOUT TMDLS

8.1.1 PERMIT REQUIREMENTS

[From Small MS4 General Permit, TPDES Permit No. TXR040000, issued December 13, 2013]

The permittee shall ... determine whether the permitted discharge is directly to one or more water quality impaired water bodies where a TMDL has not yet been approved by TCEQ and EPA. If the permittee discharges directly into an impaired water body without an approved TMDL, the permittee shall perform the following activities:

(1) Discharging a Pollutant of Concern

- a. Within the first year following the permit effective date, the permittee shall determine whether the small MS4 may be a source of the pollutant(s) of concern by referring to the CWA §303(d) list and then determining if discharges from the MS4 would be likely to contain the pollutant(s) of concern at levels of concern.*
- b. If the permittee determines that the small MS4 may discharge the pollutant(s) of concern to an impaired water body without an approved TMDL, the permittee shall, no later than two years following the permit effective date, ensure that the SWMP includes focused BMPs, along with corresponding measurable goals, that the permittee will implement, to reduce, the discharge of pollutant(s) of concern that contribute to the impairment of the water body.*
- c. In addition, no later than three years following the permit effective date, the permittee shall submit an NOC to amend the SWMP to include any additional BMPs to address the pollutant(s) of concern.*

(2) Impairment of Bacteria

Where the impairment is for bacteria, the permittee shall identify potential significant sources and develop and implement focused BMPs for those sources. The permittee may implement the BMPs listed in Part II.D.4(a)(5) or proposed alternative BMPs as appropriate.

- (3) The annual report must include information on compliance with this section, including results of any sampling conducted by the permittee.

8.1.2 PLAN OF COMPLIANCE FOR DISCHARGES TO IMPAIRED WATERS WITHOUT A TMDL

During the preparation of this SWMP the City determined that its permitted MS4 discharges do not flow directly to any impaired water bodies where a TMDL has not yet been approved by TCEQ and EPA. Segment 1008_2, Spring Creek from Field Store Road to SH249, is listed as having depressed dissolved oxygen. It is adjacent to the City’s MS4, but does not receive waters directly from the City’s MS4. The water body receives discharges directly from MS4 operated by Lone Star College and TxDOT, therefore, Table 8-1 is blank.

Table 8-1 - Pollutants of Concern Discharged from City MS4 to Impaired Waters			
Segment No.	Name	Description	Impairment
N/A	N/A	N/A	N/A

8.1.2.1 Determine Whether Small MS4 May be a Source of Pollutants of Concern by December 2014

BMP is not applicable to City as it does not discharge directly to any impaired water bodies.

8.1.2.2 Update SWMP by December 2015 to Include Focused BMPs

BMP is not applicable to City as it does not discharge directly to any impaired water bodies.

8.1.2.3 Submit Notice of Change by December 2016 to Formally Amend SWMP

BMP is not applicable to City as it does not discharge directly to any impaired water bodies.

8.1.2.4 Bacteria Impairments

BMP is not applicable to City as it does not discharge directly to any impaired water bodies.

8.2 DISCHARGES TO WATERS WITH APPROVED TMDLS

8.2.1 PERMIT REQUIREMENTS

[From Small MS4 General Permit, TPDES Permit No. TXR040000, issued December 13, 2013]

If the small MS4 discharges to ...a... water body with an approved TMDL, where stormwater has the potential to cause or contribute to the impairment, the permittee shall include in the SWMP controls targeting the pollutant(s) of concern along with any additional or modified controls required in the TMDL and this section. The SWMP and required annual reports must include information on implementing any targeted controls required to reduce the pollutant(s) of concern as described below:

(1) *Targeted Controls*

The SWMP must include a detailed description of all targeted controls to be implemented, such as identifying areas of focused effort or implementing additional Best Management Practices (BMPs) to reduce the pollutant(s) of concern in the impaired waters.

(2) *Measurable Goals*

For each targeted control, the SWMP must include a measurable goal and an implementation schedule describing BMPs to be implemented during each year of the permit term.

(3) *Identification of Benchmarks*

The SWMP must identify a benchmark for the pollutant(s) of concern. Benchmarks are designed to assist in determining if the BMPs established are effective in addressing the pollutant(s) of concern in stormwater discharge(s) from the MS4 to the maximum extent practicable (MEP). The BMPs addressing the pollutant of concern must be re-evaluated on an annual basis for progress towards the benchmarks and modified as necessary within an adaptive management framework. These benchmarks are not numeric effluent limitations or permit conditions but intended to be guidelines for evaluating progress towards reducing pollutant discharges consistent with the benchmarks. The exceedance of a benchmark is not a permit violation and does not in itself indicate a violation of instream water quality standards. The benchmark must be determined based on one of the following options:

- a. *If the MS4 is subject to a TMDL that identifies a Waste Load Allocation(s) (WLA) for permitted MS4 stormwater sources, then the SWMP may identify it as the benchmark. Where an aggregate allocation is used as a benchmark, all affected MS4 operators are*

jointly responsible for progress in meeting the benchmark and shall (jointly or individually) develop a monitoring/assessment plan as required in Part II.D.4(a)(6).

- b. Alternatively, if multiple small MS4s are discharging into the same ... water body with an approved TMDL, with an aggregate WLA for all permitted stormwater MS4s, then the MS4s may combine or share efforts to determine an alternative sub-benchmark for the pollutant(s) of concern (e.g., bacteria) for their respective MS4. The SWMP must clearly define this alternative approach and must describe how the sub-benchmark would cumulatively support the aggregate WLA. Where an aggregate benchmark has been broken into sub-benchmarks for individual MS4s, each permittee is only responsible for progress in meeting its sub-benchmark.*

(4) Annual Report

The annual report must include an analysis of how the selected BMPs will be effective in contributing to achieving the benchmark.

(5) Impairment for Bacteria

If the pollutant of concern is bacteria, the permittee shall include focused BMPs addressing the below areas, as applicable, in the SWMP and implement as appropriate. If a TMDL Implementation Plan (I-Plan) is available, the permittee may refer to the I-Plan for appropriate BMPs. The SWMP and annual report must include the selected BMPs. Permittees may not exclude BMPs associated with the minimum control measures required under 40 CFR §122.34 from their list of proposed BMPs. Proposed BMPs will be reviewed by the executive director during the NOI and SWMP review and approval process.

The BMPs shall, as appropriate, address the following:

- a. Sanitary Sewer Systems*
 - (i) Make improvements to sanitary sewers to reduce overflows;*
 - (ii) Address lift station inadequacies;*
 - (iii) Improve reporting of overflows; and*
 - (iv) Strengthen sanitary sewer use requirements to reduce blockage from fats, oils, and grease.*

b. On-site Sewage Facilities (for entities with appropriate jurisdiction)

- (i) Identify and address failing systems; and*
- (ii) Address inadequate maintenance of On-Site Sewage Facilities (OSSFs).*

c. Illicit Discharges and Dumping

Place additional effort to reduce waste sources of bacteria; for example, from septic systems, grease traps, and grit traps.

d. Animal Sources

Expand existing management programs to identify and target animal sources such as zoos, pet waste, and horse stables.

e. Residential Education

Increase focus to educate residents on:

- (i) Bacteria discharging from a residential site either during runoff events or directly;*
- (ii) Fats, oils, and grease clogging sanitary sewer lines and resulting overflows;*
- (iii) Decorative ponds; and*
- (iv) Pet waste.*

(6) Monitoring or Assessment of Progress

The permittee shall monitor or assess progress in achieving benchmarks and determine the effectiveness of BMPs, and shall include documentation of this monitoring or assessment in the SWMP and annual reports. In addition, the SWMP must include methods to be used.

a. The permittee may use either of the following methods to evaluate progress towards the benchmark and improvements in water quality as follows:

(i) Evaluating Program Implementation Measures

The permittee may evaluate and report progress towards the benchmark by describing the activities and BMPs implemented, by identifying the

appropriateness of the identified BMPs, and by evaluating the success of implementing the measurable goals. The permittee may assess progress by using program implementation indicators such as: (1) number of sources identified or eliminated; (2) decrease in number of illegal dumping; (3) increase in illegal dumping reporting; (4) number of educational opportunities conducted; (5) reductions in sanitary sewer flows (SSOs); or, (6) increase in illegal discharge detection through dry screening, etc.; or

(ii) Assessing Improvements in Water Quality

The permittee may assess improvements in water quality by using available data for segment and assessment units of water bodies from other reliable sources, or by proposing and justifying a different approach such as collecting additional instream or outfall monitoring data, etc. Data may be acquired from TCEQ, local river authorities, partnerships, and/or other local efforts as appropriate.

- b. Progress towards achieving the benchmark shall be reported in the annual report. Annual reports shall report the benchmark and the year(s) during the permit term that the MS4 conducted additional sampling or other assessment activities.*

(7) Observing no Progress Towards the Benchmark

If, by the end of the third year from the effective date of the permit, the permittee observes no progress toward the benchmark either from program implementation or water quality assessments as described in Part II.D.4(a)(6), the permittee shall identify alternative focused BMPs that address new or increased efforts towards the benchmark or, as appropriate, shall develop a new approach to identify the most significant sources of the pollutant(s) of concern and shall develop alternative focused BMPs for those (this may also include information that identifies issues beyond the MS4's control). These revised BMPs must be included in the SWMP and subsequent annual reports.

Where the permittee originally used a benchmark based on an aggregated WLA, the permittee may combine or share efforts with other MS4s discharging to the same watershed to determine an alternative sub-benchmark for the pollutant(s) of concern for their respective MS4s, as described in Part II.D.4(a)(3)(b) above. Permittees must document, in their SWMP for the next permit term, the proposed schedule for the development and subsequent adoption of alternative sub benchmark for the pollutant(s) of concern for their respective MS4s and associated assessment of progress in meeting those individual benchmarks.

8.2.2 WATERS WITH APPROVED TMDLS THAT RECEIVE DISCHARGES FROM THE CITY OF TOMBALL MS4

During the preparation of this SMWP, the City reviewed the TCEQ's summary of water bodies that have an EPA approved TMDL. Two formally approved TMDL affect watersheds that receive stormwater discharges from the City of Tomball MS4. These are listed below in Table 8-2 (TCEQ, 2014).

Table 8-2 – Watersheds with Approved TMDLs Receiving Discharges from the Tomball MS4		
Segment No.	Name	Pollutant
1008	Spring Creek	Bacteria
1008H	Willow Creek	Bacteria

8.2.3 FOCUSED BMPs TO ADDRESS DISCHARGES TO WATERS WITH APPROVED BACTERIA TMDLs

To address discharges to waters with approved bacteria TMDLs the following subsection of this SWMP includes a description of focused BMPs to be implemented along with the measurable goals for each focused BMP, the due date in months and years (or frequency) for each implementation action, and the benchmark for progress tracking. Table 8-3 summarizes each focused BMP, implementation activities, measurable goal, due dates or frequency of actions, and the benchmark. Information about the State law and City regulations that provide the legal authority necessary to implement and enforce this program and all others is provided in combined format in Section 2.4. A summary of written procedures describing how the permittee will implement this program is included in each of the BMPs described in this section.

8.2.3.1 Focused Bacteria BMP: Address Sanitary Sewer System and Lift Station Conditions

Description and Summary of Implementation Procedures: The City will develop a map of the sanitary sewer system and lift stations based on the age of the infrastructure components. The City will review sanitary sewer overflow reports and add this information to the map. The City will develop a system evaluation process that will identify and prioritize system improvements or replacements needed to reduce or eliminate sanitary sewer overflows (SSOs). The City will conduct the evaluation, identify needed improvement projects (such as lift station and line repairs) and schedule the necessary work to reduce or eliminate SSOs.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, Due Dates or Frequency of Actions, and Benchmark:
See Table 8-3.

8.2.3.2 Focused Bacteria BMP: Improve Sanitary Sewer System Leaks and Overflow Reporting

Description and Summary of Implementation Procedures: The City will train employees to identify and report sanitary sewer leaks or overflows. Educate residents to identify and report sanitary sewer leaks or overflows. Employees and residents will be encouraged to report location, time, and estimated volume of leakage or overflow observed or signs of leakage or overflow conditions, including odor, staining, or vegetation conditions. The City will publicize the reporting mechanism and document all reports.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, Due Dates or Frequency of Actions, and Benchmark:
See Table 8-3.

8.2.3.3 Focused Bacteria BMP: Improve Collection System Protections and Public Education

Description and Summary of Implementation Procedures: The City will review and update its sewer use rules regarding the introduction of fats, oils, greases, rags, and disposable wipes into the system. The City will develop and implement a public education program that will explain the adverse environmental impacts and customer cost increases resulting from the inappropriate disposal of objects, fats, oils, greases, rags, and disposable wipes into the sanitary sewer system and inform the public about appropriate disposal methods for these items.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, Due Dates or Frequency of Actions, and Benchmark:
See Table 8-3.

8.2.3.4 Focused Bacteria BMP: Address Onsite Sewage Facilities (Septic Systems)

Description and Summary of Implementation Procedures: The City will identify failing systems by creating a map of impaired watersheds, known septic systems, known sanitary sewer systems, and developed tracts of land. The City will conduct a desktop evaluation of the mapping data and identify areas of development not served by sanitary sewer systems. The City will conduct drive-by inspections of developed areas not served by sanitary sewer systems to investigate conditions and to identify failing systems. Once identified, the City will encourage owner / operators to address failing systems. The City will take enforcement action as appropriate to compel owners / operators to address failing systems. The

City will address inadequate maintenance of septic systems. See Section 4.3.8 for related program for onsite sewage facilities.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, Due Dates or Frequency of Actions, and Benchmark: See Table 8-3.

8.2.3.5 Focused Bacteria BMP: Illicit Discharges and Dumping

Description and Summary of Implementation Procedures: The City will conduct illicit discharge detection efforts in the impaired watershed. City staff will walk drainage ways and creeks within watersheds with approved TMDLs to visually inspect stormwater outfalls to identify illicit discharges and dumping sites along riparian areas. Identified illicit discharges will be investigated and eliminated as described in Section 4.3.10. Found dumping sites will be mitigated using the City's *Mitigate Illegal Dumping Sites* program as described in Section 4.3.8.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, Due Dates or Frequency of Actions, and Benchmark: See Table 8-3.

8.2.3.6 Focused Bacteria BMP: Identify and Address Significant Animal Sources

Description and Summary of Implementation Procedures: The City will identify significant animal sources of bacteria such as zoos, horse stables, concentrated animal feeding operations, or similar large facilities with significant animal populations that are located in the impaired watershed with an approved bacteria TMDL. The City will create an inventory and map of significant animal source facilities. The City will evaluate the types of facilities and the City's existing legal authority and, if necessary, modify existing regulations to address the identified animal sources. The City will work with facility owners and operators to voluntarily mitigate bacteria loading to impaired waters with approved TMDLs. If facilities fail to address loading, then the City will take enforcement action to compel load reductions.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, Due Dates or Frequency of Actions, and Benchmark: See Table 8-3.

8.2.3.7 Focused Bacteria BMP: Residential Education About Bacteria Loadings

Description and Summary of Implementation Procedures: The City will include educational goals in its overall public education program that focus on the education of residents to avoid discharging oils and grease down the sink, avoid feeding water birds, and cleaning up pet waste. See also Section 3.3.12 for Identify Goals and Objectives of Public Education and Outreach Program.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, Due Dates or Frequency of Actions, and Benchmark: See Table 8-3.

8.2.3.8 Focused Bacteria BMP: Pet Waste Management Regulation

Description and Summary of Implementation Procedures: The City will develop and adopt a pet waste management regulation that will require residents to clean up pet waste.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, Due Dates or Frequency of Actions, and Benchmark: See Table 8-3.

8.2.3.9 Focused Bacteria BMP: Grease and Grit Trap Regulation

Description and Summary of Implementation Procedures: The City adopted an ordinance that requires the City's Public Works department to maintain a list of grease and grit trap generators. *Tomball, Texas, Code of Ordinances, PART II – Code of Ordinances, Chapter 82 – Utilities, Article III. – Industrial Wastes, Sec. 82-108 – Grease and Grit Traps* requires grease and grit trap generators to deliver a copy of the disposal manifest to the Public Works Department in order that the City can monitor the cleaning and maintenance of the grease or grit trap and take enforcement action if necessary. The City will document any enforcement action taken.

Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, Due Dates or Frequency of Actions, and Benchmark: See Table 8-3.

8.2.3.10 Sanitary Sewer Overflow Mitigation Program

Description and Summary of Implementation Procedures: The City initiated the Infrastructure Replacement Program in the early 90's. One focus of this program is to address sanitary sewer overflows

(SSO). By implementing an Inflow and Infiltration program the City intends to reduce the number of SSO's and the associated suspended solids, pathogenic organisms, toxic pollutants, nutrients, oil, and grease. In addition, the City will address lift stations and manholes. The City will identify, map, and prioritize sewer line problem areas, lift station repairs, and manholes that need replacement. All upgrades will be performed on a yearly basis within budgetary allowances.

8.2.3.11 Legal Authority: See Section 2.4 of this document for a summary of the City of Tomball's legal authority.

BMP, Implementation Activities, Measurable Goal, Due Dates or Frequency of Actions, and Benchmark:
See Table 8-3.

Table 8-3 – Focused BMPs Addressing Bacteria TMDLs

BMP	Activity	Measurable Goals	Completed By (Month and Year) or Frequency of Action	Benchmark
Address Sanitary Sewer System and Lift Station Conditions	Develop map of system by age with overflow locations noted.	Complete map.	June 2017	Complete activity on time.
	Develop system evaluation process.	Complete evaluation process.	September 2017	Complete activity on time.
	Conduct system evaluation and identify needed improvements.	Complete evaluation.	June 2018	Complete activity on time.
Improve Sanitary Sewer System Leaks and Overflow Reporting	Train employees to identify and report overflows or leaks.	Complete development of training materials and conduct first training session.	June 2017 and then Annually	Complete activity on time.
	Educate residents to identify and report overflows or leaks.	Complete development of educational materials and begin distribution.	June 2017 and then Annually	Complete activity on time.
	Publicize reporting mechanisms and document all reports.	Include reporting methods in training and public education.	June 2017 and then Annually	Complete activity on time.
Improve Collection System Protections and Public Education	Review and update sewer use ordinance related to the discharge of fats, oils, grease, rags, and disposable wipes.	Adopt revised ordinance.	June 2017	Complete activity on time.
	Develop public education program to inform the public about the adverse impacts from discharging fats, oils, grease, rags, and disposable wipes.	Finish development of program.	June 2017	Complete activity on time.
	Distribute educational materials.	Complete activity.	Annually	Complete activity on time.

Table 8-3 – Focused BMPs Addressing Bacteria TMDLs

BMP	Activity	Measurable Goals	Completed By (Month and Year) or Frequency of Action	Benchmark
Address Onsite Sewage Facilities	Prepare map of septic systems, sanitary sewer systems, tracts of land, developed land (land use), and identify priority areas.	Complete map.	June 2016	Complete map on time.
	Conduct study of map and conduct drive by inspections of priority areas.	Identify priority areas in impaired watersheds with development and no sanitary sewer system for inspection. Inspect priority areas. Summarize inspection findings.	Identify priority areas by September 2016. Inspect priority areas by September 2017, and September 2018.	Complete identification of priority areas on time. Complete inspections on time.
	Encourage owners and operators to address failing systems. Enforce on owners and operators that fail to mitigate failing systems.	Encourage system repairs. Enforce on owners as necessary. Summarize encouragement activities and enforcement activities.	Document communications to owners as they occur. Document enforcement actions as they occur.	Communicate or enforce on identified failing septic systems within three months of identification.
Illicit Discharges and Dumping	Visually inspect creeks and drainage ways that are part of the Tomball MS4 in watersheds with approved TMDLs.	Document inspection findings.	Complete by September 2017.	Complete and document findings on time.
	Investigate found discharges.	Document actions taken regarding found discharges.	Complete by September 2017.	Complete and document findings on time.
	Take enforcement actions as needed.	Document enforcement actions.	Complete by September 2018.	Complete and document findings on time.
	Clean up dumping sites.	Document findings and clean up actions.	Complete by September 2018.	Complete and document findings on time.

Table 8-3 – Focused BMPs Addressing Bacteria TMDLs

BMP	Activity	Measurable Goals	Completed By (Month and Year) or Frequency of Action	Benchmark
Identify and Address Significant Animal Sources	Identify and map significant animal source facilities in impaired watershed with approved bacteria TMDLs.	Complete map and inventory.	September 2017	Complete activity on time.
	Evaluate animal source facilities and existing legal authority.	Document findings.	September 2017	Complete activity on time.
	Adopt new regulations (if required).	Adopt regulations (if needed).	September 2017	Complete activity on time.
	Seek voluntary actions to reduce bacteria loads. Document actions and results.	Complete and document activities.	June 2018	Complete activity on time.
	Take enforcement action to compel load reductions.	Complete and document activities.	September 2018	Complete activity on time.
Residential Education About Bacteria Loadings	Include information about reducing bacteria loads from residential activities including pet waste management in public education program goals and objectives.	See Section 3.3.1	See Section 3.3.1	Complete activity on time.
Pet Waste Management Regulation	Develop and adopt a pet waste management regulation	Complete activity.	June 2017	Complete activity on time.
	Adopt regulation.	Complete activity.	September 2017	Complete activity on time.

Table 8-3 – Focused BMPs Addressing Bacteria TMDLs

BMP	Activity	Measurable Goals	Completed By (Month and Year) or Frequency of Action	Benchmark
Grease and Grit Trap Ordinance	Continue to update list of grease and grit trap waste generators.	Maintain list of all grease and grit trap waste generators.	Ongoing	Complete activity.
	Continue to review grease and grit trap disposal manifests for compliance with City Ordinance.	Collect and review 100% of manifests for grease and grit trap generators. Perform inspections and take enforcement action as necessary.	Ongoing	Complete activity.
Sanitary Sewer Overflow Mitigation Program	Update sanitary sewer replacement map.	Update map and maintain log to document date of revisions.	Once per Year	Complete activity.
	Develop a list to prioritize lines that need to be replaced or repaired. Develop a budget for projects.	Maintain log of repair or replacement priorities and approve yearly budget for Infrastructure Replacement projects.	Once per Year	Complete activity.
	Complete scheduled and budgeted repairs or replacement projects.	Complete activity.	Ongoing	Complete activity.

9.0 RECORD-KEEPING AND REPORTING

The City shall conduct record-keeping and adhere to reporting requirements mandated by the TCEQ General Permit as defined below:

9.1 RECORD KEEPING (PART IV, SECTION A)

1. *The permittee shall retain all records, a copy of this TPDES general permit, and records of all data used to complete the application (NOI) for this general permit and satisfy the public participation requirements, for a period of at least three (3) years, or for the remainder of the term of this general permit, whichever is longer. This period may be extended by request of the executive director at any time.*
2. *The permittee shall submit the records to the executive director only when specifically asked to do so. The SWMP required by this general permit (including a copy of the general permit) must be retained at a location accessible to the TCEQ.*
3. *The permittee shall make the NOI and the SWMP available to the public at reasonable times during regular business hours, if requested to do so in writing. Copies of the SWMP must be made available within ten (10) working days of receipt of a written request. Other records must be provided in accordance with the Texas Public Information Act. However, all requests for records from federal facilities must be made in accordance with the Freedom of Information Act.*
4. *The period during which records are required to be kept shall be automatically extended to the date of the final disposition of any administrative or judicial enforcement action that may be instituted against the permittee.*

9.2 REPORTING (PART IV, SECTION B)

9.2.1 General Reporting Requirements (Section B.1)

- (a) *Noncompliance Notification.*

According to 30 TAC § 305.125(9), any noncompliance which may endanger human health or safety, or the environment, must be reported by the permittee to the TCEQ. Report of such information must be provided orally or by electronic facsimile transmission (FAX) to the TCEQ regional office within 24 hours of becoming aware of the noncompliance. A written report must be provided by the permittee to the appropriate TCEQ regional office and to the TCEQ Enforcement

Division (MC-224) within five working days of becoming aware of the noncompliance. The written report must contain:

- (1) A description of the noncompliance and its cause;
- (2) The potential danger to human health or safety, or the environment;
- (3) The period of noncompliance, including exact dates and times;
- (4) If the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- (5) Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

(b) *Other Information*

When the permittee becomes aware that it either submitted incorrect information or failed to submit complete and accurate information requested in an NOI, NOT, or NOC, or any other report, the permittee shall promptly submit the facts or information to the executive director.

9.2.2 ANNUAL REPORT (Section B.2)

The MS4 operator shall submit a concise annual report to the executive director within 90 days of the end of each reporting year. For the purpose of this section, the reporting year may include either the permit year, the permittee's fiscal year or the calendar year, as elected by the small MS4 and notified to the TCEQ in the application submittal. The annual report must address the previous reporting year.

The first reporting year for annual reporting purposes shall begin on the permit effective date, and shall last for a period of one (1) year (the end of the "permit year"). Alternatively, if the permittee elects to report based on its fiscal year, the first reporting year will last until the end of the fiscal year following the end of the first permit year. If the permittee elects to report based on the calendar year, then the first reporting year will last until December 31, 2014.

The MS4 has selected the "calendar year" as the reporting year. The annual report is therefore due on March 31 each year starting on March 31, 2015.

Subsequent calendar years will begin at the beginning of the first reporting year (which will vary based on the previous paragraph) and last for one (1) year. The MS4 operator shall also make a copy of the annual report readily available for review by TCEQ personnel upon request. The report must include:

- (a) *The status of the compliance with permit conditions, an assessment of the appropriateness of the identified BMPs, progress towards achieving the statutory goal of reducing the discharge of pollutants to the MEP, the measurable goals for each of the MCMs, and an evaluation of the success of the implementation of the measurable goals;*
- (b) *A summary of the results of information collected and analyzed, during the reporting period, including monitoring data used to assess the success of the program at reducing the discharge of pollutants to the MEP;*
- (c) *If applicable, a summary of any activities taken to address the discharge to impaired waterbodies, including any sampling results and a summary of the small MS4s BMPs used to address the pollutant of concern;*
- (d) *A summary of the stormwater activities the MS4 operator plans to undertake during the next reporting year;*
- (e) *Proposed changes to the SWMP, including changes to any BMPs or any identified measurable goals that apply to the program elements;*
- (f) *Description and schedule for implementation of additional BMPs that may be necessary, based on monitoring results, to ensure compliance with applicable TMDLs and implementations plans;*
- (g) *Notice that the MS4 operator is relying on another government entity to satisfy some of its permit obligations (if applicable);*
- (h) *The number of construction activities where the small MS4 is the operator and authorized under the 7th optional MCM, including the total number of acres disturbed; and*
- (i) *The number of construction activities that occurred within the jurisdictional area of the small MS4 (as noticed to the permittee by the construction operator), and that were not authorized under the 7th MCM.*

An annual report must be prepared whether or not the NOI and SWMP have been approved by the TCEQ. If the permittee has either not implemented the SWMP or not begun to implement the SWMP because it has not received approval of the NOI and SWMP, then the annual report may include that information.

If permittees share a common SWMP, they shall contribute to and submit a single system-wide report. Each permittee shall sign and certify the annual report in accordance with 30 TAC § 305.128 (relating to Signatories to Reports).

The annual report must be submitted with the appropriate TCEQ reporting forms if available, or as otherwise approved by TCEQ.

The annual report must be submitted to the following address:

*Texas Commission on Environmental Quality
Stormwater & Pretreatment Team (MC – 148)
P.O. Box 13087
Austin, Texas 78711-3087*

A copy of the annual report must also be submitted to the TCEQ Regional Office that serves the area of the regulated small MS4.

If available, electronic submission of annual reports is encouraged. The Federal Waste Reduction Act and the Government Paperwork Elimination Act encourages governmental agencies to use electronic submission. See the TCEQ website at, www.tceq.texas.gov for additional information and instructions.

10.0 REFERENCES

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Appendix A

General Permit for Small Municipal Separate Storm Sewer Systems to Discharge Under the Texas Pollutant Discharge Elimination System, Permit No. TXR040000, December 13, 2013

Texas Commission on Environmental Quality

P.O. Box 13087, Austin, Texas 78711-3087



GENERAL PERMIT TO DISCHARGE UNDER THE TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM

under provisions of
402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

This permit supersedes and replaces
TPDES General Permit No. TXR040000, issued August 13, 2007

Small Municipal Separate Storm Sewer Systems
located in the state of Texas
may discharge directly to surface water in the state

only according to requirements and conditions set forth in this general permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ or Commission), the laws of the State of Texas, and other orders of the the TCEQ. The issuance of this general permit does not grant to the permittee the right to use private or public property for conveyance of stormwater and certain non-stormwater discharges along the discharge route. This includes property belonging to but not limited to any individual, partnership, corporation or other entity. Neither does this general permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

This general permit and the authorization contained herein shall expire at midnight, five years after the permit effective date.

EFFECTIVE DATE: DEC 13 2013

ISSUED DATE: DEC 13 2013

A handwritten signature in black ink that reads "Bryan W. Shaw". The signature is written over a horizontal line.
For the Commission

**TCEQ GENERAL PERMIT NUMBER TXR040000
RELATING TO DISCHARGES FROM
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS**

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Part I. Definitions

Arid Areas - Areas with an average annual rainfall of less than ten (10) inches.

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

Catch basins - Storm drain inlets and curb inlets to the storm drain system. Catch basins typically include a grate or curb inlet that may accumulate sediment, debris, and other pollutants.

Classified Segment - A water body that is listed and described in Appendix A or Appendix C of the Texas Surface Water Quality Standards, at 30 Texas Administrative Code (TAC) § 307.10.

Clean Water Act (CWA) - The Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et. seq.

Common Plan of Development or Sale - A construction activity that is completed in separate stages, separate phases, or in combination with other construction activities. A common plan of development or sale is identified by the documentation for the construction project that identifies the scope of the project, and may include plats, blueprints, marketing plans, contracts, building permits, a public notice or hearing, zoning requests, or other similar documentation and activities.

Construction Activity - Soil disturbance, including clearing, grading, and excavating; and not including routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site (e.g., the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities). Regulated construction activity is defined in terms of small and large construction activity.

Small Construction Activity is construction activity that results 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.

Large Construction Activity is construction activity that results 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.

Construction Site Operator - The entity or entities associated with a small or large construction project that meet(s) either of the following two criteria:

- (a) The entity or entities that have operational control over construction plans and specifications (including approval of revisions) to the extent necessary to meet the requirements and conditions of this general permit; or
- (b) The entity or entities that have day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with a stormwater pollution

prevention plan (SWP3) for the site or other permit conditions (for example they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions).

Control Measure - Any BMP or other method used to prevent or reduce the discharge of pollutants to water in the state.

Conveyance - Curbs, gutters, man-made channels and ditches, drains, pipes, and other constructed features designed or used for flood control or to otherwise transport stormwater runoff.

Discharge - When used without a qualifier, refers to the discharge of stormwater runoff or certain non-stormwater discharges as allowed under the authorization of this general permit.

Edwards Aquifer - As defined in 30 TAC §213.3 (relating to the Edwards Aquifer), that portion of an arcuate belt of porous, water-bearing, predominantly carbonate rocks known as the Edwards and Associated Limestones in the Balcones Fault Zone trending from west to east to northeast in Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, and Williamson Counties; and composed of the Salmon Peak Limestone, McKnight Formation, West Nueces Formation, Devil's River Limestone, Person Formation, Kainer Formation, Edwards Formation, and Georgetown Formation. The permeable aquifer units generally overlie the less-permeable Glen Rose Formation to the south, overlie the less-permeable Comanche Peak and Walnut Formations north of the Colorado River, and underlie the less-permeable Del Rio Clay regionally.

Edwards Aquifer Recharge Zone - Generally, that area where the stratigraphic units constituting the Edwards Aquifer crop out, including the outcrops of other geologic formations in proximity to the Edwards Aquifer, where caves, sinkholes, faults, fractures, or other permeable features would create a potential for recharge of surface waters into the Edwards Aquifer. The recharge zone is identified as that area designated as such on official maps located in the offices of the TCEQ or the TCEQ website.

Final Stabilization - A construction site where any of the following conditions are met:

- (a) All soil disturbing activities at the site have been completed and a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a density of 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 (for example 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.

- (d) In arid, semi-arid, and drought-stricken areas only, all soil disturbing activities at the site have been completed and both of the following criteria have been met:
- (1) Temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three years without active maintenance by the operator, and
 - (2) The temporary erosion control measures are selected, designed, and installed to achieve 70 percent vegetative coverage within three years.

General Permit - A permit issued to authorize the discharge of waste into or adjacent to water in the state for one or more categories of waste discharge within a geographical area of the state or the entire state as provided by Texas Water Code (TWC) §26.040.

Groundwater Infiltration - For the purposes of this permit, groundwater that enters a municipal separate storm sewer system (including sewer service connections and foundation drains) through such means as defective pipes, pipe joints, connections, or manholes.

High Priority Facilities - High priority facilities are facilities with a high potential to generate stormwater pollutants. These facilities must include, at a minimum, the MS4 operator's maintenance yards, hazardous waste facilities, fuel storage locations, and other facilities where chemicals or other materials have a high potential to be discharged in stormwater. Among the factors that must be considered when giving a facility a high priority ranking are: the amount of urban pollutants stored at the site, the identification of improperly stored materials, activities that must not be performed outside (for example, changing automotive fluids, vehicle washing), proximity to waterbodies, proximity to sensitive aquifer recharge features, poor housekeeping practices, and discharge of pollutant(s) of concern to impaired water(s).

Hyperchlorinated Water - Water resulting from hyperchlorination of waterlines or vessels, with a chlorine concentration greater than 10 milligrams per liter (mg/L).

Illicit Connection - Any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

Illicit Discharge - Any discharge to a municipal separate storm sewer that is not entirely composed of stormwater, except discharges pursuant to this general permit or a separate authorization and discharges resulting from emergency fire fighting activities.

Impaired Water - A surface water body that is identified on the latest approved CWA §303(d) List as not meeting applicable state water quality standards. Impaired waters include waters with approved or established total maximum daily loads (TMDLs), and those where a TMDL has been proposed by TCEQ but has not yet been approved or established.

Indian Country - Defined in 18 USC § 1151 as: (a) All land within the limits of any Indian reservation under the jurisdiction of the United States (U.S.) Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; (b) All dependent Indian communities within the borders of the U.S. whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and (c) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. This definition includes all land held in trust for an Indian tribe.

Indicator Pollutant - An easily measured pollutant, that may or may not impact water quality that indicates the presence of other stormwater pollutants.

Industrial Activity - Any of the ten (10) categories of industrial activities included in the definition of "stormwater discharges associated with industrial activity" as defined in 40 Code of Federal Regulations (CFR) §122.26(b)(14)(i)-(ix) and (xi).

Maximum Extent Practicable (MEP) - The technology-based discharge standard for municipal separate storm sewer systems (MS4s) to reduce pollutants in stormwater discharges that was established by the CWA § 402(p). A discussion of MEP as it applies to small MS4s is found in 40 CFR § 122.34.

MS4 Operator - For the purpose of this permit, the public entity or the entity contracted by the public entity, responsible for management and operation of the small municipal separate storm sewer system that is subject to the terms of this general permit.

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

- (a) Owned or operated by the U.S., a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over the 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 the CWA §208 that discharges to surface water in the state;
- (b) That is designed or used for collecting or conveying stormwater;
- (c) That is not a combined sewer; and
- (d) That is not part of a publicly owned treatment works (POTW) as defined in 40 CFR §122.2.

Non-traditional Small MS4 - A small MS4 that often cannot pass ordinances and may not have the enforcement authority like a traditional small MS4 would have to enforce the stormwater management program. Examples of non-traditional small MS4s include counties, transportation authorities (including the Texas Department of Transportation), municipal utility districts, drainage districts, military bases, prisons and universities.

Notice of Change (NOC) - A written notification from the permittee to the executive director providing changes to information that was previously provided to the agency in a notice of intent.

Notice of Intent (NOI) - A written submission to the executive director from an applicant requesting coverage under this general permit.

Notice of Termination (NOT) - A written submission to the executive director from a permittee authorized under a general permit requesting termination of coverage under this general permit.

Outfall - A point source at the point where a small MS4 discharges to waters of the U.S. and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels, or other conveyances that connect segments of the same stream or other waters of the U.S. and are used to convey waters of the U.S. For the purpose of this permit, sheet flow leaving a linear transportation system without channelization is not considered an outfall. Point sources such as curb cuts; traffic or right-of-way barriers with drainage slots that drain into open culverts, open swales or an adjacent property, or otherwise not actually discharging into waters of the U.S. are not considered an outfall.

Permittee - The MS4 operator authorized under this general permit.

Point Source - (from 40 CFR § 122.22) any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

Pollutant(s) of Concern - For the purpose of this permit, includes biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids (TSS), turbidity or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from an MS4. (Definition from 40 CFR § 122.32(e)(3)).

Redevelopment - Alterations of a property that changed the "footprint" of a site or building in such a way that there is a disturbance of equal to or greater than one (1) acre of land. This term does not include such activities as exterior remodeling, routine maintenance activities, and linear utility installation.

Semiarid Areas - Areas with an average annual rainfall of at least ten (10) inches, but less than 20 inches.

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

- (a) Owned or operated by the U.S., a state, city, town, borough, county, 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 CWA § 208;
- (b) Designed or used for collecting or conveying stormwater;
- (c) Which is not a combined sewer;
- (d) Which is not part of a publicly owned treatment works (POTW) as defined in 40 CFR § 122.2; and
- (e) Which was not previously regulated under a National Pollutant Discharge Elimination System (NPDES) or a Texas Pollutant Discharge Elimination System (TPDES) individual permit as a medium or large municipal separate storm sewer system, as defined in 40 CFR §§122.26(b)(4) and (b)(7).

This term includes systems similar to separate storm sewer systems at military bases, large hospitals or prison complexes, and highways and other thoroughfares. This term does not include separate storm sewers in very discrete areas, such as individual buildings. For the purpose of this permit, a very discrete system also includes storm drains associated with certain municipal offices and education facilities serving a nonresidential population, where those storm drains do not function as a system, and where the buildings are not physically interconnected to a small MS4 that is also operated by that public entity.

Stormwater and Stormwater Runoff - Rainfall runoff, snow melt runoff, and surface runoff and drainage.

Stormwater Associated with Construction Activity - Stormwater runoff from an area where there is either a large construction or a small construction activity.

Stormwater Management Program (SWMP) - A comprehensive program to manage the quality of discharges from the municipal separate storm sewer system.

Structural Control (or Practice) - A pollution prevention practice that requires the construction of a device, or the use of a device, to capture or prevent pollution in stormwater runoff. Structural controls and practices may include but are not limited to: wet ponds, bioretention, infiltration basins, stormwater wetlands, silt fences, earthen dikes, drainage swales, vegetative lined ditches, vegetative filter strips, sediment traps, check dams, subsurface drains, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins.

Surface Water in the State - Lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state (from the mean high water mark (MHW) out 10.36 miles into the Gulf), 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 water courses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment systems which are authorized by state or federal law, regulation, or permit, and which are created for the purpose of waste treatment are not considered to be water in the state.

Total Maximum Daily Load (TMDL) - The total amount of a substance that a water body can assimilate and still meet the Texas Surface Water Quality Standards.

Traditional Small MS4 - A small MS4 that can pass ordinances and have the enforcement authority to enforce the stormwater management program. An example of traditional MS4s includes cities.

Urbanized Area (UA) - An area of high population density that may include multiple small MS4s as defined and used by the U.S. Census Bureau in the 2000 and the 2010 Decennial census.

Waters of the United States - (According to 40 CFR § 122.2) Waters of the United States or waters of the U.S. means:

- (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 that 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; or
 - (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 the CWA (other than cooling ponds as defined in 40 CFR § 423.11(m) which also meet the criteria of this definition) are not waters of the U.S. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the U.S. (such as disposal area in wetlands) nor resulted from the impoundment of waters of the U.S. Waters of the U.S. 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 CWA, the final authority regarding the CWA jurisdiction remains with the EPA.

Part II. Permit Applicability and Coverage

This general permit provides authorization for stormwater and certain non-stormwater discharges from small municipal separate storm sewer systems (MS4) to surface water in the state. The general permit contains requirements applicable to all small MS4s that are eligible for coverage under this general permit.

Section A. Small MS4s Eligible for Authorization under this General Permit

Discharges from a small MS4 must be authorized if any of the following criteria are met and may be authorized under this general permit if coverage is not otherwise prohibited.

1. Small MS4s Located in an Urbanized Area

Operators of small MS4s that are fully or partially located within an urbanized area (UA), as determined by the 2000 or 2010 Decennial Census by the U.S. Bureau of Census, must obtain authorization for the discharge of stormwater runoff and are eligible for coverage under this general permit unless otherwise prohibited.

2. Designated Small MS4s

A small MS4 that is outside an urbanized area that is *designated* by TCEQ based on evaluation criteria as required by 40 CFR § 122.32(a)(2) or 40 CFR § 122.26(a)(1)(v) and adopted by reference in Title 30, TAC § 281.25, is eligible for coverage under this general permit. Following designation, operators of small MS4s must obtain authorization under this general permit or apply for coverage under an individual TPDES stormwater permit within 180 days of notification of their designation.

3. Operators of Previously Permitted Small MS4s

Operators of small MS4s that were covered under the previous TPDES general permit for small MS4s (TXRo40000, Issued and Effective on August 13, 2007) must reapply for permit coverage, or must obtain a waiver if applicable (see Part II.B, related to Obtaining a Waiver.)

4. Regulated Portion of Small MS4

The portion of the small MS4 that is required to meet the conditions of this general permit are those portions that are located within the UA as defined and used by the U.S. Census Bureau in the 2000 or 2010 census, as well as any portion of the small MS4 that is designated by TCEQ.

For the purpose of this permit, the regulated portion of a small MS4 for a transportation entity is the land owned by the permittee within the UA which functions as, or is integral to a transportation system with drainage conveyance. Non-contiguous property that does not drain into the transportation drainage system is not subject to this general permit.

5. Categories of Regulated Small MS4s

This permit defines MS4 operators by the following categories, or levels, based on the population served within the 2010 UA. The level of a small MS4 may change during the permit term based on the MS4 operator acquiring or giving up regulated area, such as by annexing land or if land is annexed away. However, the level of a small MS4 will not change during the permit term based on population fluctuation.

- (a) Level 1: Operators of traditional small MS4s that serve a population of less than 10,000 within a UA;
- (b) Level 2: Operators of traditional small MS4s that serve a population of at least 10,000 but less than 40,000 within a UA. This category also includes all non-traditional small MS4s such as counties, drainage districts, transportation entities, military bases, universities, colleges, correctional institutions, municipal utility districts and other special districts regardless of population served within the UA, unless the non-traditional MS4 can demonstrate that it meets the criteria for a waiver from permit coverage based on the population served;
- (c) Level 3: Operators of traditional small MS4s that serve a population of at least 40,000 but less than 100,000 within a UA;
- (d) Level 4: Operators of traditional small MS4s that serve a population of 100,000 or more within a UA.

For the purpose of this section “serve a population” means the residential population within the regulated portion of the small MS4 based on the 2010 census, except for non-traditional small MS4s listed in (b) above.

Section B. Available Waivers from Coverage

The TCEQ may waive permitting requirements for small regulated MS4 operators if the criteria are met for Waiver Option 1 or 2 below. To obtain Waiver Option 1, the MS4 operator must submit the request on a waiver form provided by the executive director. To obtain Waiver Option 2, the MS4 operator must contact the executive director and coordinate the activities required to meet the waiver conditions. A provisional waiver from permitting requirements begins 30 days after an administratively complete waiver form is postmarked for delivery to the TCEQ. Following review of the waiver form, the executive director may: (1) Determine that the waiver form is technically complete and approve the waiver by providing a notification and a waiver number; (2) Determine that the waiver form is incomplete and deny the waiver until a completed waiver form is submitted; or (3) Deny the waiver and require that permit coverage be obtained.

If the conditions of a waiver are not met by the MS4 operator, then the MS4 operator must submit an application for coverage under this general permit or a separate TPDES permit application.

At any time the TCEQ may require a previously waived MS4 operator to comply with this general permit or another TPDES permit if circumstances change so that the conditions of the waiver are no longer met. Changed circumstances can also allow a regulated MS4 operator to request a waiver at any time.

At any time the TCEQ can request to review any waivers granted to MS4 operators to determine whether any of the information required for granting the waiver has changed. At a minimum TCEQ will review all waivers when MS4 operators submit their renewal waiver applications.

For the purpose of obtaining a waiver, the population served refers to the residential population for traditional small MS4s and for certain non-traditional small MS4s with a residential population (such as counties and municipal utility districts). For other non-traditional small MS4s, the population served refers to the number of people using the small MS4 on an average operational day.

1. Waiver Option 1:

The small MS4 serves a population of less than 1,000 within a UA and meets the following criteria:

- (a) The small MS4 is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the NPDES / TPDES stormwater program (40 CFR § 122.32(d)); and
- (b) If the small MS4 discharges any pollutant(s) that have been identified as a cause of impairment of any water body to which the small MS4 discharges, stormwater controls are not needed based on wasteload allocations that are part of an EPA approved or established TMDL that addresses the pollutant(s) of concern.

2. Waiver Option 2:

The small MS4 serves a population under 10,000 within a UA and meets the following criteria:

- (a) The TCEQ has evaluated all waters of the U.S., including small streams, tributaries, lakes, and ponds, that receive a discharge from the small MS4;
- (b) For all such waters, the TCEQ has determined that stormwater controls are not needed based on wasteload allocations that are part of an approved or established TMDL that addresses the pollutant(s) of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutant(s) of concern; and
- (c) The TCEQ has determined that future discharges from the small MS4 do not have the potential to exceed Texas surface water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.
- (d) For the purpose of this paragraph (2.), the pollutant(s) of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total

suspended solids, turbidity or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the small MS4.

Section C. Allowable Non-Stormwater Discharges

The following non-stormwater sources may be discharged from the small MS4 and are not required to be addressed in the small MS4's Illicit Discharge and Detection or other minimum control measures, unless they are determined by the permittee or the TCEQ to be significant contributors of pollutants to the small MS4, or they are otherwise prohibited by the MS4 operator:

1. Water line flushing (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life);
2. Runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;
3. Discharges from potable water sources that do not violate Texas Surface Water Quality Standards;
4. Diverted stream flows;
5. Rising ground waters and springs;
6. Uncontaminated ground water infiltration;
7. Uncontaminated pumped ground water;
8. Foundation and footing drains;
9. Air conditioning condensation;
10. Water from crawl space pumps;
11. Individual residential vehicle washing;
12. Flows from wetlands and riparian habitats;
13. Dechlorinated swimming pool discharges that do not violate Texas Surface Water Quality Standards;
14. Street wash water excluding street sweeper waste water;
15. Discharges or flows from emergency fire fighting activities (fire fighting activities do not include washing of trucks, run-off water from training activities, test water from fire suppression systems, and similar activities);
16. Other allowable non-stormwater discharges listed in 40 CFR § 122.26(d)(2)(iv)(B)(1);
17. Non-stormwater discharges that are specifically listed in the TPDES Multi Sector General Permit (MSGP) TXRo50000 or the TPDES Construction General Permit (CGP) TXR150000;
18. Discharges that are authorized by a TPDES or NPDES permit or that are not required to be permitted; and
19. Other similar occasional incidental non-stormwater discharges such as spray park water, unless the TCEQ develops permits or regulations addressing these discharges.

Section D. Limitations on Permit Coverage**1. Discharges Authorized by Another TPDES Permit**

Discharges authorized by an individual or other general TPDES permit may be authorized under this TPDES general permit only if the following conditions are met:

- (a) The discharges meet the applicability and eligibility requirements for coverage under this general permit;
- (b) A previous application or permit for the discharges has not been denied, terminated, or revoked by the executive director as a result of enforcement or water quality related concerns. The executive director may provide a waiver to this provision based on new circumstances at the regulated small MS4; and
- (c) The executive director has not determined that continued coverage under an individual permit is required based on consideration of an approved total maximum daily loading (TMDL) model and implementation plan, anti-backsliding policy, history of substantive non-compliance or other 30 TAC Chapter 205 considerations and requirements, or other site-specific considerations.

2. Discharges of Stormwater Mixed with Non-Stormwater

Stormwater discharges that combine with sources of non-stormwater are not eligible for coverage by this general permit, unless either the non-stormwater source is described in Part II.C of this general permit or the non-stormwater source is authorized under a separate TPDES permit.

3. Compliance with Water Quality Standards

Discharges to surface water in the state that would cause, has the reasonable potential to cause, or contribute to a violation of water quality standards or that would fail to protect and maintain existing designated uses are not eligible for coverage under this general permit except as described in Part II.D.4 below. The executive director may require an application for an individual permit or alternative general permit to authorize discharges to surface water in the state if the executive director determines that an activity will cause has the reasonable potential to cause, or contribute to, a violation of water quality standards or is found to cause, have the reasonable potential to cause, or contribute to the impairment of a designated use of surface water in the state. The executive director may also require an application for an individual permit based on factors described in Part II.F.2.

4. Impaired Water Bodies and Total Maximum Daily Load (TMDL) Requirements

Discharges of the pollutant(s) of concern to impaired water bodies for which there is a TCEQ and EPA approved total maximum daily load (TMDL) are not eligible for this general permit unless they are consistent with the approved TMDL. A water body is impaired for purposes of the permit if it has been identified, pursuant to the latest TCEQ and EPA approved CWA §303(d) list, as not meeting Texas Surface Water Quality Standards.

The permittee shall control the discharges of pollutant(s) of concern to impaired waters and waters with approved TMDLs as provided in sections (a) and (b) below, and shall assess the progress in controlling those pollutants.

- (a) Discharges to Water Quality Impaired Water Bodies with an Approved TMDL

If the small MS4 discharges to an impaired water body with an approved TMDL, where stormwater has the potential to cause or contribute to the impairment, the permittee shall include in the SWMP controls targeting the pollutant(s) of concern along with any additional or modified controls required in the TMDL and this section.

The SWMP and required annual reports must include information on implementing any targeted controls required to reduce the pollutant(s) of concern as described below:

(1) Targeted Controls

The SWMP must include a detailed description of all targeted controls to be implemented, such as identifying areas of focused effort or implementing additional Best Management Practices (BMPs) to reduce the pollutant(s) of concern in the impaired waters.

(2) Measurable Goals

For each targeted control, the SWMP must include a measurable goal and an implementation schedule describing BMPs to be implemented during each year of the permit term.

(3) Identification of Benchmarks

The SWMP must identify a benchmark for the pollutant(s) of concern. Benchmarks are designed to assist in determining if the BMPs established are effective in addressing the pollutant(s) of concern in stormwater discharge(s) from the MS4 to the maximum extent practicable (MEP). The BMPs addressing the pollutant of concern must be re-evaluated on an annual basis for progress towards the benchmarks and modified as necessary within an adaptive management framework. These benchmarks are not numeric effluent limitations or permit conditions but intended to be guidelines for evaluating progress towards reducing pollutant discharges consistent with the benchmarks. The exceedance of a benchmark is not a permit violation and does not in itself indicate a violation of instream water quality standards.

The benchmark must be determined based on one of the following options:

- a. If the MS4 is subject to a TMDL that identifies a Waste Load Allocation(s) (WLA) for permitted MS4 stormwater sources, then the SWMP may identify it as the benchmark. Where an aggregate allocation is used as a benchmark, all affected MS4 operators are jointly responsible for progress in meeting the benchmark and shall (jointly or individually) develop a monitoring/assessment plan as required in Part II.D.4(a)(6).
- b. Alternatively, if multiple small MS4s are discharging into the same impaired water body with an approved TMDL, with an aggregate WLA for all permitted stormwater MS4s, then the MS4s may combine or share efforts to determine an alternative sub-benchmark for the pollutant(s) of concern (e.g., bacteria) for their respective MS4. The SWMP must clearly define this alternative approach and must describe how the sub-benchmark would cumulatively support the aggregate WLA. Where an aggregate benchmark has been broken into sub-benchmarks for individual MS4s, each permittee is only responsible for progress in meeting its sub-benchmark.

(4) Annual Report

The annual report must include an analysis of how the selected BMPs will be effective in contributing to achieving the benchmark.

(5) Impairment for Bacteria

If the pollutant of concern is bacteria, the permittee shall include focused BMPs addressing the below areas, as applicable, in the SWMP and implement as appropriate. If a TMDL Implementation Plan (I-Plan) is available, the permittee may refer to the I-Plan for appropriate BMPs. The SWMP and annual report must include the selected BMPs. Permittees may not exclude BMPs associated with the minimum control measures required under 40 CFR §122.34 from their list of proposed BMPs. Proposed BMPs will be reviewed by the executive director during the NOI and SWMP review and approval process.

The BMPs shall, as appropriate, address the following:

- a. Sanitary Sewer Systems
 - (i) Make improvements to sanitary sewers to reduce overflows;
 - (ii) Address lift station inadequacies;
 - (iii) Improve reporting of overflows; and
 - (iv) Strengthen sanitary sewer use requirements to reduce blockage from fats, oils, and grease.
- b. On-site Sewage Facilities (for entities with appropriate jurisdiction)
 - (i) Identify and address failing systems; and
 - (ii) Address inadequate maintenance of On-Site Sewage Facilities (OSSFs).
- c. Illicit Discharges and Dumping
Place additional effort to reduce waste sources of bacteria; for example, from septic systems, grease traps, and grit traps.
- d. Animal Sources
Expand existing management programs to identify and target animal sources such as zoos, pet waste, and horse stables.
- e. Residential Education
Increase focus to educate residents on:
 - (i) Bacteria discharging from a residential site either during runoff events or directly;
 - (ii) Fats, oils, and grease clogging sanitary sewer lines and resulting overflows;
 - (iii) Decorative ponds; and
 - (iv) Pet waste.

(6) Monitoring or Assessment of Progress

The permittee shall monitor or assess progress in achieving benchmarks and determine the effectiveness of BMPs, and shall include documentation of this monitoring or assessment in the SWMP and annual reports. In addition, the SWMP must include methods to be used.

- a. The permittee may use either of the following methods to evaluate progress towards the benchmark and improvements in water quality as follows:

(i) Evaluating Program Implementation Measures

The permittee may evaluate and report progress towards the benchmark by describing the activities and BMPs implemented, by identifying the appropriateness of the identified BMPs, and by evaluating the success of implementing the measurable goals.

The permittee may assess progress by using program implementation indicators such as: (1) number of sources identified or eliminated; (2) decrease in number of illegal dumping; (3) increase in illegal dumping reporting; (4) number of educational opportunities conducted; (5) reductions in sanitary sewer flows (SSOs); or, (6) increase in illegal discharge detection through dry screening, etc.; or

(ii) Assessing Improvements in Water Quality

The permittee may assess improvements in water quality by using available data for segment and assessment units of water bodies from other reliable sources, or by proposing and justifying a different approach such as collecting additional instream or outfall monitoring data, etc. Data may be acquired from TCEQ, local river authorities, partnerships, and/or other local efforts as appropriate.

- b. Progress towards achieving the benchmark shall be reported in the annual report. Annual reports shall report the benchmark and the year(s) during the permit term that the MS4 conducted additional sampling or other assessment activities.

(7) Observing no Progress Towards the Benchmark

If, by the end of the third year from the effective date of the permit, the permittee observes no progress toward the benchmark either from program implementation or water quality assessments as described in Part II.D.4(a)(6), the permittee shall identify alternative focused BMPs that address new or increased efforts towards the benchmark or, as appropriate, shall develop a new approach to identify the most significant sources of the pollutant(s) of concern and shall develop alternative focused BMPs for those (this may also include information that identifies issues beyond the MS4's control). These revised BMPs must be included in the SWMP and subsequent annual reports.

Where the permittee originally used a benchmark based on an aggregated WLA, the permittee may combine or share efforts with other MS4s discharging to the same watershed to determine an alternative sub-benchmark for the pollutant(s) of concern for their respective MS4s, as described in Part II.D.4(a)(3)(b) above. Permittees must document, in their SWMP for the next permit term, the proposed schedule for the development and subsequent adoption of alternative sub benchmark for the pollutant(s) of concern for their respective MS4s and associated assessment of progress in meeting those individual benchmarks.

(b) Discharges Directly to Water Quality Impaired Water Bodies without an Approved TMDL

The permittee shall also determine whether the permitted discharge is directly to one or more water quality impaired water bodies where a TMDL has not yet been approved by TCEQ and EPA. If the permittee discharges directly into an impaired water body without an approved TMDL, the permittee shall perform the following activities:

(1) Discharging a Pollutant of Concern

- a. Within the first year following the permit effective date, the permittee shall determine whether the small MS4 may be a source of the pollutant(s) of concern by referring to the CWA §303(d) list and then determining if discharges from the MS4 would be likely to contain the pollutant(s) of concern at levels of concern.
- b. If the permittee determines that the small MS4 may discharge the pollutant(s) of concern to an impaired water body without an approved TMDL, the permittee shall, no later than two years following the permit effective date, ensure that the SWMP includes focused BMPs, along with corresponding measurable goals, that the permittee will implement, to reduce, the discharge of pollutant(s) of concern that contribute to the impairment of the water body.
- c. In addition, no later than three years following the permit effective date, the permittee shall submit an NOC to amend the SWMP to include any additional BMPs to address the pollutant(s) of concern.

(2) Impairment of Bacteria

Where the impairment is for bacteria, the permittee shall identify potential significant sources and develop and implement focused BMPs for those sources. The permittee may implement the BMPs listed in Part II.D.4(a)(5) or proposed alternative BMPs as appropriate.

- (3) The annual report must include information on compliance with this section, including results of any sampling conducted by the permittee.

5. Discharges to the Edwards Aquifer Recharge Zone

Discharges of stormwater from regulated small MS4s, and other non-stormwater discharges, are not authorized by this general permit where those discharges are prohibited by 30 TAC Chapter 213 (Edwards Aquifer Rule). New discharges located within the Edwards Aquifer Recharge Zone, or within that area upstream from the recharge zone and defined as the Contributing Zone, must meet all applicable requirements of, and operate according to, 30 TAC Chapter 213 (Edwards Aquifer Rule) in addition to the provisions and requirements of this general permit.

For existing discharges, the requirements of the agency-approved Water Pollution Abatement Plan (WPAP) under the Edwards Aquifer Rule are in addition to the requirements of this general permit. BMPs and maintenance schedules for structural stormwater controls, for example, may be required as a provision of the rule. All applicable requirements of the Edwards Aquifer Rule for reductions of suspended solids in stormwater runoff are in addition to the effluent limitation requirements found in Part VI.D. of this general permit.

The permittee's agency-approved WPAPs that are required by the Edwards Aquifer Rule must be referenced in the SWMP. Additional agency-approved WPAPs received after the SWMP submittal must be recorded in the annual report for each respective permit year. For discharges originating from the small MS4 permitted area, and located on or within ten stream miles upstream of the Edwards Aquifer recharge zone, applicants must also submit a copy of the MS4 NOI to the appropriate TCEQ regional office with each WPAP application submitted to TCEQ on or after August 13, 2012.

Counties: Comal, Bexar, Medina, Uvalde, and Kinney

Contact:

TCEQ, Water Program Manager
San Antonio Regional Office
14250 Judson Road
San Antonio, Texas 78233-4480
(210) 490-3096

Counties: Williamson, Travis, and Hays

Contact:

TCEQ, Water Program Manager
Austin Regional Office
12100 Park 35 Circle, Bldg. A, Rm 179
Austin, Texas 78753
(512) 339-2929

6. Discharges to Specific Watersheds and Water Quality Areas

Discharges of stormwater from regulated small MS4s and other non-stormwater discharges are not authorized by this general permit where prohibited by 30 TAC Chapter 311 (relating to Watershed Protection) for water quality areas and watersheds.

7. Protection of Streams and Watersheds by Home Rule Municipalities

This general permit does not limit the authority of a home-rule municipality provided by § 401.002 of the Texas Local Government Code.

8. Indian Country Lands

Stormwater runoff from small MS4s that occur on Indian Country lands are not under the authority of the TCEQ and are not eligible for coverage under this general permit. If discharges of stormwater require authorization under federal NPDES regulations, authority for these discharges must be obtained from the U.S. EPA.

9. Endangered Species Act

Discharges that would adversely affect a listed endangered or threatened species or its critical habitat are not authorized by this permit. Federal requirements related to endangered species apply to all TPDES permitted discharges, and site-specific controls may be required to ensure that protection of endangered or threatened species is achieved. If a permittee has concerns over potential impacts to listed species, the permittee shall contact TCEQ for additional information prior to submittal of the NOI and SWMP. If adverse impact is determined after submittal of the NOI and SWMP or after permit issuance, the permittee shall contact TCEQ immediately to determine corrective action and potential modification to the MS4's permit.

10. Other

Nothing in Part II of the general permit is intended to negate any person's ability to assert the force majeure (act of God, war, strike, riot, or other catastrophe) defenses found in 30 TAC § 70.7.

This permit does not transfer liability for the act of discharging without, or in violation of, a NPDES or a TPDES permit from the operator of the discharge to the permittee(s).

Section E. Obtaining Authorization**1. Application for Coverage**

When submitting a notice of intent (NOI) and SWMP, for coverage under this general permit, as described in Parts II.E.3., II.E.4, and Part III, the applicant must follow the public notice and availability requirements found in Part II.E.12 of this general permit.

Applicants seeking authorization to discharge under this general permit must submit a completed NOI on a form approved by the executive director, and a SWMP as described in Part III. The NOI and SWMP must be submitted to the TCEQ Water Quality Division, at the address specified on the form. Following review of the NOI and SWMP, the executive director may determine that: 1) The submission is complete and confirm coverage by providing a notification and an authorization number, 2) The NOI or SWMP are incomplete and deny coverage and require that a new complete NOI and SWMP be submitted, 3) Approve the NOI and SWMP with revisions and provide a written description of the required revisions along with any compliance schedule(s), or 4) Deny coverage and provide a deadline by which the MS4 operator must submit an application for an individual permit. Discharge authorization begins when the applicant is notified by TCEQ that the NOI and SWMP have been administratively and technically reviewed and the applicant has followed the public participation provisions in Part II.E.12. Denial of coverage under this general permit is subject to the requirements of 30 TAC § 205.4(c). Application deadlines are as follows:

(a) Small MS4s Located in a 2010 Urbanized Area (UA) (Newly regulated Small MS4s)

Operators of small MS4s described in Part II.A.1 that were not previously regulated under the TPDES General Permit TXR040000, shall submit an NOI and SWMP within 180 days following the effective date of this general permit.

(b) Small MS4s Located in a 2000 UA (Previously Regulated Small MS4s)

Operators of small MS4s described in Part II.A.1 that were required to obtain authorization under the previous TPDES General Permit TXR040000 based on the 2000 UA maps shall submit an NOI and revised SWMP within 180 days following the effective date of this general permit.

(c) Designated Small MS4s

Following designation, operators of small MS4s described in Part II.A.2 shall submit an NOI and SWMP, or apply for coverage under an individual TPDES stormwater permit, within 180 days of being notified in writing by the TCEQ of the need to obtain permit coverage.

(d) Individual Permit Alternative

If an operator of a small MS4 described in Part II.A.1. of this general permit elects to apply for an individual permit, the application must be submitted within 90 days following the effective date of this general permit.

2. Late Submission of the NOI and SWMP

Operators are not prohibited from submitting an NOI and SWMP after the deadlines provided. If a late NOI and SWMP are submitted, then this general permit provides authorization only for discharges that occur after permit coverage is obtained. The TCEQ reserves the right to take appropriate enforcement actions for any unpermitted discharges.

3. Stormwater Management Program (SWMP)

A SWMP must be developed and submitted with the NOI for eligible discharges that will reach waters of the U.S., including discharges from the regulated small MS4 to other MS4s or to privately-owned separate storm sewer systems that subsequently drain to waters of the U.S., according to the requirements of Part III of this general permit. The SWMP must include, as appropriate, the months and years in which the permittee will undertake required actions, including interim milestones and the frequency of the action throughout the permit term.

New elements in the program must be completely implemented within five years of the effective date of this general permit, or within five years of being designated for those small MS4s which are designated following permit issuance. Previously regulated MS4s shall assess existing program elements set forth in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP.

Changes may be made to the SWMP during the permit term. The TCEQ may notify the permittee of the need to modify the SWMP to be consistent with the general permit, in which case the permittee will have 90 days to finalize such changes to the SWMP.

Changes that are made to the SWMP before the NOI is approved by the TCEQ must be submitted in a letter providing supplemental information to the NOI. Changes to the SWMP that are made after TCEQ approval of the NOI and SWMP may be made following submittal of a notice of change (NOC) and receipt of written approval of the NOC from the TCEQ, except as follows:

- (a) The following changes may be implemented without submitting an NOC form. The changes may be made immediately following revision of the SWMP, and must be included in the annual report:
 - (1) Adding components, controls, or requirements to the SWMP; or replacing a BMP with an equivalent BMP. An equivalent BMP is one that is intended to address the same concern as the original BMP and is substantially similar in nature to the original BMP;
 - (2) Nonsubstantive changes, including:
 - a. A change in personnel, or a reorganization of departments responsible for implementing the SWMP;
 - b. Minor clarifications to the existing BMPs;
 - c. Correction of typographical errors;

- d. Other similar administrative or nonsubstantive comments.
- (3) Adding or subtracting area(s) during the permit term, such as by annexing land or if land is de-annexed.
- (b) The permittee may replace a less effective or infeasible BMP specifically identified in the SWMP with an alternative BMP, (for example, replacing a structural BMP with a non-structural BMP). Such a change may be implemented within 60 days following submittal of an NOC form, unless the NOC is denied in writing by TCEQ. Such requests must include the following:
 - (1) An explanation of why the BMP was eliminated;
 - (2) An explanation of the effectiveness of the replacement BMP; and
 - (3) An explanation of how the replacement BMP is expected to achieve the goals of the previous BMP.
- (c) All other changes must be submitted on an NOC form and may only be implemented following written approval by TCEQ (See Part II.E.5).

4. Contents of the NOI

The NOI must contain the following minimum information:

- (a) MS4 Operator Information
 - (1) The name, mailing address, electronic mail (email) address, telephone number, and facsimile (fax) number of the MS4 operator; and
 - (2) The legal status of the MS4 operator (for example, federal government, state government, county government, city government, or other government).
- (b) Site Information
 - (1) The name, physical location description, and latitude and longitude of the approximate center of the regulated portion of the small MS4;
 - (2) County or counties where the small MS4 is located;
 - (3) An indication if all or a portion of the small MS4 is located on Indian Country Lands;
 - (4) The name, mailing address, telephone number, email (if available) and fax number of the designated person(s) responsible for implementing or coordinating implementation of the SWMP;
 - (5) A signature and certification on the NOI, according to 30 TAC § 305.44, that a SWMP has been developed according to the provisions of this permit;
 - (6) A statement that the applicant will comply with the Public Participation requirements described in Part II.E.12.;
 - (7) The name of each classified segment that receives discharges, directly or indirectly, from the small MS4. If one or more of the discharge(s) is not directly to a classified segment, then the name of the first classified segment that those discharges reach must be identified;

- (8) The name of any MS4 receiving the discharge prior to discharge into waters of the U.S.;
- (9) The name of all surface water(s) receiving discharges from the small MS4 that are on the latest EPA-approved CWA § 303(d) list of impaired waters;
- (10) An indication of whether the small MS4 discharges within the Recharge Zone, the Contributing Zone or the Contributing Zone within the Transition Zone of the Edwards Aquifer; and
- (11) Any other information deemed necessary by the executive director.

5. Notice of Change (NOC)

If the MS4 operator becomes aware that it failed to submit any relevant facts, or submitted incorrect information in the NOI, the correct information must be provided to the executive director in a NOC within 30 days after discovery. If any information provided in the NOI changes, an NOC must be submitted within 30 days from the time the permittee becomes aware of the change.

Any revisions that are made to the SWMP must be made in accordance with Part II.E.3. above. Changes that are made to the SWMP following NOI approval must be made using an NOC form, in accordance with Part II.E.3. above.

6. Change in Operational Control of a Small MS4

If the operational control of the regulated small MS4 changes, the previous operator must submit a Notice of Termination (NOT) and the new operator must submit an NOI and SWMP. The NOT and NOI must be submitted concurrently not more than ten (10) calendar days after the change occurs.

7. Notice of Termination (NOT)

A permittee may terminate coverage under this general permit by providing a Notice of Termination (NOT) on a form approved by the executive director. Authorization to discharge terminates at midnight on the day that an NOT is postmarked for delivery to the TCEQ, or immediately following confirmation of receipt of the electronic NOT form by the TCEQ. A NOT must be submitted within 30 days after the MS4 operator obtains coverage under an individual permit.

8. Signatory Requirement for NOI, NOT, NOC, and Waiver Forms

NOI, NOT, NOC, and Waiver forms must be signed and certified consistent with 30 TAC § 305.44(a) and (b) (relating to Signatories to Applications).

9. Fees

An application fee of \$100.00 must be submitted with each NOI. A fee is not required for submission of a waiver form, a NOT, or an NOC.

A permittee authorized under this general permit must pay an annual Water Quality fee of \$100.00 under TWC § 26.0291 and 30 TAC Chapter 205 (relating to General Permits for Waste Discharges).

10. Permit Expiration

- (a) This general permit is effective for five (5) years from the permit effective date. Authorizations for discharge under the provisions of this general permit will continue until the expiration date of the general permit. This general permit may be amended, revoked, or canceled by the commission or renewed by the TCEQ for an additional term not to exceed five (5) years.
- (b) If the executive director proposes to reissue this general permit before the expiration date, the general permit will remain in effect until the date on which the commission takes final action on the proposal to reissue this general permit. For existing permittees, general permit coverage will remain in effect after the expiration date of the existing general permit, in accordance with 30 TAC, Chapter 205. No new NOIs will be accepted and no new authorizations will be processed under the general permit after the expiration date.
- (c) Following issuance of a renewed or amended general permit, all permittees, including those covered under the expired general permit, may be required to submit an NOI according to the requirements of the new general permit or to obtain a TPDES individual permit for those discharges. The renewed permit will include a deadline to apply for coverage, and authorization for existing permittees will be automatically extended until the deadline to apply for coverage, or until an application is submitted for renewal, whichever occurs first.
- (d) If the TCEQ does not propose to reissue this general permit within 90 days before the expiration date, permittees must apply for authorization under a TPDES individual permit or an alternative general permit. If the application for an individual permit is submitted before the expiration date of this general permit, authorization under this expiring general permit remains in effect until the issuance or denial of an individual permit.

11. Suspension of Permit Coverage

The executive director may suspend an authorization under this general permit for the reasons specified in 30 TAC § 205.4(d) by providing the discharger with written notice of the decision to suspend that authority, and the written notice will include a brief statement of the basis for the decision. If the decision requires an application for an individual permit or an alternative general permit, the written notice will also include a statement establishing the deadline for submitting an application. The written notice will state that the authorization under this general permit is either suspended on the effective date of the commission's action on the permit application, unless the commission expressly provides otherwise, or immediately, if required by the executive director.

12. Public Notice Process for NOI submittal

An applicant under this general permit shall adhere to the following procedures:

- (a) The applicant shall submit an NOI and SWMP to the executive director. The SWMP must include information about:
 - (1) BMPs the applicant will implement for each of the six MCMs, as appropriate;
 - (2) The measurable goals for each of the BMPs, including, as appropriate the months and years in which the applicant will take the required actions, including interim milestones and the frequency of the action; and

- (3) The person or persons responsible for implementing or coordinating the applicants SWMP.
- (b) After the applicant receives written instructions from the TCEQ's Office of Chief Clerk, the applicant must publish notice of the executive director's preliminary decision on the NOI and SWMP.
- (c) The notice will include the following information, at a minimum:
 - (1) The legal name of the MS4 operator;
 - (2) Indication of whether the NOI is for a new authorization or is a renewal of an existing authorization;
 - (3) The address of the applicant;
 - (4) A brief summary of the information included in the NOI, such as the general location of the small MS4 and a description of the classified receiving waters that receive the discharges from the small MS4;
 - (5) The location and mailing address where the public may provide comments to the TCEQ;
 - (6) The public location where copies of the NOI and SWMP, as well as the executive director's general permit and fact sheet, may be reviewed; and
 - (7) If required by the executive director, the date, time, and location of the public meeting.
- (d) This notice must be published at least once in a newspaper of general circulation in the municipality or county where the small MS4 is located. If the small MS4 is located in multiple municipalities or counties, the notice must be published at least once in a newspaper of general circulation in the municipality or county containing the largest resident population for the regulated portion of the small MS4. This notice must provide opportunity for the public to submit comments on the NOI and SWMP. In addition, the notice must allow the public to request a public meeting. A public meeting will be held if the TCEQ determines that there is significant public interest.
- (e) The public comment period begins on the first date the notice is published and lasts for at least 30 days. If a public meeting is held, the comment period will end at the closing of the public meeting (see paragraph (f) below). The public may submit written comments to the TCEQ Office of Chief Clerk during the comment period detailing how the NOI or SWMP for the small MS4 fails to meet the technical requirements or conditions of this general permit.
- (f) If significant public interest exists, the executive director will direct the applicant to publish a notice of the public meeting and to hold the public meeting. The applicant shall publish notice of a public meeting at least 30 days before the meeting and hold the public meeting in a county where the small MS4 is located. TCEQ staff will facilitate the meeting.
- (g) If a public meeting is held, the applicant shall describe the contents of the NOI and SWMP. The applicant shall also provide maps and other data on the small MS4. The applicant shall provide a sign in sheet for attendees to register their names and addresses and furnish the sheet to the executive director. A public meeting held under this general permit is not an evidentiary proceeding.
- (h) The applicant shall file with the Chief Clerk a copy and an affidavit of the publication of notice(s) within 60 days of receiving the written instructions from the Chief Clerk.

- (i) The executive director, after considering public comment, will either approve, approve with conditions, or deny the NOI based on whether the NOI and SWMP meet the requirements of this general permit.
- (j) Persons whose names and addresses appear legibly on the sign-in sheet from the public meeting and persons who submitted written comments to the TCEQ will be notified by the TCEQ's Office of Chief Clerk of the executive director's decision regarding the authorization.

Section F. Permitting Options

1. Authorization Under the General Permit

An operator of a small MS4 is required to obtain authorization either under this general permit, or under an individual TPDES permit if it is located in a UA or designated by the TCEQ. Multiple small MS4s with separate operators must individually submit an NOI to obtain coverage under this general permit, regardless of whether the systems are physically interconnected, located in the same UA, or are located in the same watershed. Each regulated small MS4 will be issued a distinct permit number. These MS4 operators may combine or share efforts in meeting any or all of the SWMP requirements stated in Part III of this general permit. MS4 operators that share SWMP development and implementation responsibilities must meet the following conditions:

(a) Participants

The SWMP must clearly list the name and permit number for each MS4 operator that chooses to contribute to development or implementation of the SWMP, and provide written confirmation that the contributing MS4 operator has agreed to contribute. If a contributing small MS4 has submitted a NOI and SWMP to TCEQ, but has not yet received written notification of approval, along with the accompanying permit authorization number, a copy of the submitted NOI form must be made readily available or be included in the SWMP.

(b) Responsibilities

Each permittee is entirely responsible for meeting SWMP requirements within the boundaries of its small MS4. Where a separate MS4 operator is contributing to implementation of the SWMP, the SWMP must clearly define each minimum control measure and the component(s) each entity agrees to implement, within which MS4 area(s) each entity agrees to implement and clearly identify the contributing MS4 operator.

2. Alternative Coverage under an Individual TPDES Permit

An MS4 operator eligible for coverage under this general permit may alternatively be authorized under an individual TPDES permit according to 30 TAC Chapter 305 (relating to Consolidated Permits). The executive director may require a MS4 operator, authorized by this general permit, to apply for an individual TPDES permit because of: the conditions of an approved TMDL or TMDL implementation plan; a history of substantive non-compliance; or other 30 TAC Chapter 205 considerations and requirements; or other site-specific considerations. The executive director shall deny or suspend a facility's authorization for disposal under this general permit based on a rating of "unsatisfactory performer" according to commission rules in 30 TAC §60.3, *Use of Compliance History*. An applicant who owns or operates a facility classified as an "unsatisfactory performer" is

entitled to a hearing before the commission prior to having its coverage denied or suspended, in accordance with Tex. Water Code § 26.040(h).

Part III. Stormwater Management Program (SWMP)

To the extent allowable under state and local law, a SWMP must be developed, implemented and enforced according to the requirements of Part III of this general permit, for stormwater discharges that reach waters of the U.S., regardless of whether the discharge is conveyed through a separately operated storm sewer system. The SWMP must be developed, implemented and enforced to reduce the discharge of pollutants from the small MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the CWA and the TWC.

A permittee that implements best management practices consistent with the provisions of their permit and SWMP constitutes compliance with the standard of reducing pollutants to the MEP and will be deemed in compliance with Part III of this permit. This permit does not extend any compliance deadlines set forth in the previous permit effective August 13, 2007.

Section A. Developing a Stormwater Management Program (SWMP)

1. SWMP Development and Schedule

(a) Existing regulated small MS4s

Permittees who were regulated under the previous TPDES general permit TXRo40000, shall update and submit to the TCEQ an updated SWMP under this general permit along with the NOI for coverage. The NOI and SWMP are due within 180 days of the general permit effective date. The permittee shall continue to operate under the conditions of the previous permit and existing SWMP until the revised SWMP is approved.

(b) New regulated small MS4s

Operators of regulated small MS4s that were not required to obtain permit coverage under the previous TPDES general permit TXRo40000, have 180 days from the effective date of the general permit to develop and submit their NOI and SWMP.

(c) Implementation of the SWMP

Existing small MS4 operators shall ensure full implementation of any new elements in the revised SWMP as soon as practicable, but no later than five years from the permit effective date. Previously regulated MS4 operators shall continue to implement existing elements in the approved SWMPs until the revised SWMPs has been approved.

Designated small MS4s must achieve full implementation of the SWMP as soon as practicable, but no later than five years from designation. Newly regulated small MS4s, based on the 2010 Decennial Census, must achieve full implementation of the SWMP as soon as practicable, but no later than five years from the permit effective date.

2. Content of the SWMP

At a minimum, the permittee shall include the following information in its SWMP:

- (a) A description of Minimum Control Measures (MCM) with measureable goals, including, as appropriate, the months and years in which the permittee will undertake required actions, including interim milestones and the frequency of the action for each MCM described in Part III, Section B.
- (b) A measurable goal that includes the development of ordinances or other regulatory mechanisms, allowed by state, federal and local law, providing the legal authority necessary to implement and enforce the requirements of this permit, including information on any limitations to the legal authority;
- (c) A summary of written procedures describing how the permittee will implement the provisions in Parts III and IV of this general permit.
- (d) A description of a program or a plan of compliance with the requirements in Part II.D.4. (relating to Impaired Water Bodies and Total Maximum Daily Load (TMDL) Requirements)

3. Legal Authority

- (a) Traditional small MS4s, such as cities
 - (1) Within two years from the permit effective date, the permittee shall review and revise, if needed, its relevant ordinance(s) or other regulatory mechanism(s), or shall adopt a new ordinance(s) or other regulatory mechanism(s) that provide the permittee with adequate legal authority to control pollutant discharges into and from its small MS4 in order to meet the requirements of this general permit.
 - (2) To be considered adequate, this legal authority must, at a minimum, address the following:
 - a. Authority to prohibit illicit discharges and illicit connections;
 - b. Authority to respond to and contain other releases – Control the discharge of spills, and prohibit dumping or disposal of materials other than stormwater into the small MS4;
 - c. Authority to require compliance with conditions in the permittee's ordinances, permits, contracts, or orders;
 - d. Authority to require installation, implementation, and maintenance of control measures;
 - e. Authority to receive and collect information, such as stormwater plans, inspection reports, and other information deemed necessary to assess compliance with this permit, from operators of construction sites, new or redeveloped land, and industrial and commercial facilities;
 - f. Authority, as needed, to enter and inspect private property including facilities, equipment, practices, or operations related to stormwater discharges to the small MS4;
 - g. Authority to respond to non-compliance with BMPs required by the small MS4 consistent with their ordinances or other regulatory mechanism(s);
 - h. Authority to assess penalties, including monetary, civil, or criminal penalties; and
 - i. Ability to enter into interagency or interlocal agreements or other maintenance agreements, as necessary.

- (b) Non-traditional small MS4s, such as counties, drainage districts, transportation entities, municipal utility districts, military bases, prisons and universities
- (1) Where the permittee lacks the authority to develop ordinances or to implement enforcement actions, the permittee shall exert enforcement authority as required by this general permit for its facilities, employees, contractors, and any other entity over which it has operational control within the portion of the UA under the jurisdiction of the permittee. For discharges from third party actions, the permittee shall perform inspections and exert enforcement authority to the MEP.
 - (2) If the permittee does not have inspection or enforcement authority and is unable to meet the goals of this general permit through its own powers, then, unless otherwise stated in this general permit, the permittee shall perform the following actions in order to meet the goals of the permit:
 - a. Enter into interlocal agreements with municipalities where the small MS4 is located. These interlocal agreements must state the extent to which the municipality will be responsible for inspections and enforcement authority in order to meet the conditions of this general permit; or,
 - b. If it is not feasible for the permittee to enter into interlocal agreements, the permittee shall notify an adjacent MS4 operator with enforcement authority or TCEQs Field Operations Support Division as needed to report discharges or incidents that it cannot itself enforce against. In determining feasibility for entering into interlocal agreements, the permittee shall consider all factors, including, without limitations, financial considerations and the willingness of the municipalities in which the small MS4 is located.

4. Resources

It is the permittee's responsibility to ensure that it has adequate resources and funding to implement the requirements of this permit.

5. Effluent Limitations

The controls and BMPs included in the SWMP constitute effluent limitations for the purposes of compliance with state rules. This includes the requirements of 30 TAC Chapter 319, Subchapter B, which lists the maximum allowable concentrations of hazardous metals for discharge to water in the state.

6. Enforcement Measures

Permittees with enforcement authority (i.e. traditional small MS4s) shall develop a standard operating procedure (SOP) to respond to violations to the extent allowable under state and local law. When the permittee does not have enforcement authority over the violator, and the violations continue after violator has been notified by the permittee, the permittee shall notify either the adjacent MS4 operator with enforcement authority or TCEQ's Field Operations Support Division.

Section B. Minimum Control Measures

Operators of small MS4s seeking coverage under this general permit shall develop and implement a SWMP that includes the following six minimum control measures (MCMs), as applicable.

All program elements must be implemented according to the schedule mentioned in Part III.A. All six MCMs apply to all MS4s regardless of their level as described in Part II.A.5. Specific program elements under each MCM shall be implemented by all MS4 operators, unless it is specifically stated that particular program elements only are applicable for certain levels of small MS4s.

Permittees shall provide justification within the SWMP for any requirements that were not implemented because they were not feasible as described in each MCM.

1. Public Education, Outreach, and Involvement

(a) Public Education and Outreach

- (1) All permittees shall develop, implement, and maintain a comprehensive stormwater education and outreach program to educate public employees, businesses, and the general public of hazards associated with the illegal discharges and improper disposal of waste and about the impact that stormwater discharges can have on local waterways, as well as the steps that the public can take to reduce pollutants in stormwater.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. The program must, at a minimum:

- a. Define the goals and objectives of the program based on high priority community-wide issues (for example, reduction of nitrogen in discharges from the small MS4, promoting previous techniques used in the small MS4, or improving the quality of discharges to the Edwards Aquifer);
 - b. Identify the target audience(s);
 - c. Develop or utilize appropriate educational materials, such as printed materials, billboard and mass transit advertisements, signage at select locations, radio advertisements, television advertisements, and websites;
 - d. Determine cost effective and practical methods and procedures for distribution of materials.
- (2) Throughout the permit term, all permittees shall make the educational materials available to convey the program's message to the target audience(s) at least annually.
 - (3) All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2.. Any changes must be reflected in the annual report. Such written procedures must be maintained, either on site or in the SWMP and made available for inspection by the TCEQ.
 - (4) MS4 operators may partner with other MS4 operators to maximize the program and cost effectiveness of the required outreach.

(b) Public Involvement

All permittees shall involve the public, and, at minimum, comply with any state and local public notice requirements in the planning and implementation activities related

to developing and implementing the SWMP, except that correctional facilities are not required to implement this portion of the MCM.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. At a minimum, all permittees shall:

- (1) If feasible, consider using public input (for example, the opportunity for public comment, or public meetings) in the implementation of the program;
- (2) If feasible, create opportunities for citizens to participate in the implementation of control measures, such as stream clean-ups, storm drain stenciling, volunteer monitoring, volunteer "Adopt-A-Highway" programs, and educational activities;
- (3) Ensure the public can easily find information about the SWMP.

2. Illicit Discharge Detection and Elimination (IDDE)

(a) Program Development

- (1) All permittees shall develop, implement and enforce a program to detect, investigate, and eliminate illicit discharges into the small MS4. The program must include a plan to detect and address non-stormwater discharges, including illegal dumping to the MS4 system.

Existing permittees must assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. See also Part III.A.1(c).

The Illicit Discharge Detection and Elimination (IDDE) program must include the following:

- a. An up-to-date MS4 map (see Part III.B.2.(c)(1));
- b. Methods for informing and training MS4 field staff (See Part III.B.2.(c)(2));
- c. Procedures for tracing the source of an illicit discharge (see Part III. B.2.(c)(5));
- d. Procedures for removing the source of the illicit discharge (see Part III.B.2.(c)(5));
- e. For Level 2, 3 and 4 small MS4s, if applicable, procedures to prevent and correct any leaking on-site sewage disposal systems that discharge into the small MS4;
- f. For Level 4 small MS4s, procedures for identifying priority areas within the small MS4 likely to have illicit discharges, and a list of all such areas identified in the small MS4 (See Part III.B.2.(g)(1));
- g. For Level 4 small MS4s, field screening to detect illicit discharges (See Part III.B.2.(g)(2)).

- (2) For non-traditional small MS4s, if illicit connections or illicit discharges are observed related to another operator's MS4, the permittee shall notify the other MS4 operator within 48 hours of discovery. If notification to the other MS4 operator is not practicable, then the permittee shall notify the appropriate TCEQ regional office of the possible illicit connection.
- (3) If another MS4 operator notifies the permittee of an illegal connection or illicit discharge to the small MS4, then the permittee shall follow the requirements specified in Part III.B.2.(c)(3).
- (4) All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2.. Any changes must be reflected in the annual report. Such written procedures must be maintained, either on site or in the SWMP and made available for inspection by the TCEQ.

(b) Allowable Non-Stormwater Discharges

Non-stormwater flows listed in Part II.C do not need to be considered by the permittee as an illicit discharge requiring elimination unless the permittee or the TCEQ identifies the flow as a significant source of pollutants to the small MS4.

(c) Requirements for all Permittees

All permittees shall include the requirements described below in Parts III.B.2(c)(1)-(6)

(1) MS4 mapping

All permittees shall maintain an up-to-date MS4 map, which must be located on site and available for review by the TCEQ. The MS4 map must show at a minimum the following information:

- a. The location of all small MS4 outfalls that are operated by the permittee and that discharge into waters of the U.S;
- b. The location and name of all surface waters receiving discharges from the small MS4 outfalls;
- c. Priority areas identified under Part III.B.2.(e)(1) if applicable.

(2) Education and Training

All permittees shall implement a method for informing or training all the permittee's field staff that may come into contact with or otherwise observe an illicit discharge or illicit connection to the small MS4 as part of their normal job responsibilities. Training program materials and attendance lists must be maintained on site and made available for review by the TCEQ.

(3) Public Reporting of Illicit Discharges and Spills

To the extent feasible, all permittees shall publicize and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from the small MS4. The permittee shall provide a central contact point to receive reports; for example by including a phone number for complaints and spill reporting.

(4) All permittees shall develop and maintain on site procedures for responding to illicit discharges and spills.

(5) Source Investigation and Elimination

- a. Minimum Investigation Requirements – Upon becoming aware of an illicit discharge, all permittees shall conduct an investigation to identify and locate the source of such illicit discharge as soon as practicable.
 - (i) All permittees shall prioritize the investigation of discharges based on their relative risk of pollution. For example, sanitary sewage may be considered a high priority discharge.
 - (ii) All permittees shall report to the TCEQ immediately upon becoming aware of the occurrence of any illicit flows believed to be an immediate threat to human health or the environment.
 - (iii) All permittees shall track all investigations and document, at a minimum, the date(s) the illicit discharge was observed; the results of the investigation; any follow-up of the investigation; and the date the investigation was closed.
- b. Identification and Investigation of the Source of the Illicit Discharge –All permittees shall investigate and document the source of illicit discharges where the permittees have jurisdiction to complete such an investigation. If the source of illicit discharge extends outside the permittee’s boundary, all permittees shall notify the adjacent permitted MS4 operator or TCEQ’s Field Operation Support Division according to Part III.A.3.b.
- c. Corrective Action to Eliminate Illicit Discharge
 - (i) If and when the source of the illicit discharge has been determined, all permittees shall immediately notify the responsible party of the problem, and shall require the responsible party to perform all necessary corrective actions to eliminate the illicit discharge.
- (6) Inspections –The permittee shall conduct inspections, as determined appropriate, in response to complaints, and shall conduct follow-up inspections as needed to ensure that corrective measures have been implemented by the responsible party.

(d) Additional Requirements for Level 3 and 4 small MS4s

In addition to the requirements described in Parts III.B.2(c)(1)-(6) above, permittees who operate level 3 and 4 small MS4s shall meet the following requirements:

(1) Source Investigation and Elimination

Permittees who operate level 3 and 4 small MS4 shall upon being notified that the discharge has been eliminated, conduct a follow-up investigation or field screening, consistent with Part III.B.2.(e)(2), to verify that the discharge has been eliminated. The permittee shall document its follow-up investigation. The permittee may seek recovery and remediation costs from responsible parties consistent with Part III.A.3., and require compensation related costs. Resulting enforcement actions must follow the procedures for enforcement action in Part III.A.3. If the suspected source of the illicit discharge is authorized under an NPDES/TPDES permit or the discharge is listed as an authorized non-stormwater discharge, as described in Part III.C, no further action is required.

(e) Additional Requirements for Level 4 small MS4s

In addition to the requirements described in Parts III.B.2(c)-(d) above, permittees who operate level 4 small MS4s shall meet the following requirements:

(1) Identification of Priority Areas

Permittees who operate level 4 small MS4s shall identify priority areas and shall document the basis for the selection of each priority area and shall create a list of all priority areas identified. This priority area list must be available for review by the TCEQ.

(2) Dry Weather Field Screening

By the end of the permit term, permittees who operate level 4 small MS4s shall develop and implement a written dry weather field screening program to assist in detecting and eliminating illicit discharges to the small MS4. Dry weather field screening must consist of (1) field observations; and (2) as needed, field screening.

If dry weather field screening is necessary, at a minimum, the permittee shall:

- a. Conduct dry weather field screening in priority areas as identified by the permittee in Part III.B.2(e)(1). By the end of the permit term, all of those priority areas, although not necessarily all individual outfalls must be screened.
- b. Field observation requirements – The permittee shall develop written procedures for observing flows from outfalls when there has been at least 72 hours of dry weather. The written procedures should include the basis used to determine which outfalls would be observed. The permittee shall record visual observations such as odor, color, clarity, floatables, deposits or stains.
- c. Field screening requirements – The permittee shall develop written procedures to determine which dry weather flows will be screened, based on results of field observations or complaint from the public or the permittee's trained field staff. At a minimum, when visual observations indicate a potential problem such as discolored flows, foam, surface sheen, and other similar indicators of contamination, the permittee shall conduct a field screening analysis for selected indicator pollutants as determined by the permittee. Screening methodology may be modified based on experience gained during the actual field screening activities. The permittee shall document the method used.

3. Construction Site Stormwater Runoff Control

(a) Requirements and Control Measures

- (1) All permittees shall develop, implement and enforce a program requiring operators of small and large construction activities, as defined in Part I of this general permit, to select, install, implement, and maintain stormwater control measures that prevent illicit discharges to the MEP. The program must include the development and implementation of an ordinance or other regulatory mechanism, as well as sanctions to ensure compliance to the extent allowable under state, federal, and local law, to require erosion and sediment control.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the the program fully implemented by the end of this permit term.

If TCEQ waives requirements for stormwater discharges associated with small construction from a specific site(s), the permittee is not required to enforce the program to reduce pollutant discharges from such site(s).

(b) Requirements for all Permittees

All permittees shall include the requirements described below in Parts III.B.3(b)(1)-(7)

- (1) All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2. Any changes must be included in the annual report. Such written procedures must be maintained on site or in the SWMP and made available for inspection by the TCEQ.
- (2) All permittees shall require that construction site operators implement appropriate erosion and sediment control BMPs. The permittee's construction program must ensure the following minimum requirements are effectively implemented for all small and large construction activities discharging to its small MS4.
 - a. Erosion and Sediment Controls - Design, install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants.
 - b. Soil Stabilization - Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed within a period of time determined by the permittee. In arid, semiarid, and drought-stricken areas, as determined by the permittee, where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permittee.
 - c. BMPs – Design, install, implement, and maintain effective BMPs to minimize the discharge of pollutants to the small MS4. At a minimum, such BMPs must be designed, installed, implemented and maintained to:
 - (i) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters;
 - (ii) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and
 - (iii) Minimize the discharge of pollutants from spills and leaks.
 - d. As an alternative to (a) through (c) above, all permittees shall ensure that all small and large construction activities discharging to the small MS4 have developed and implemented a stormwater pollution prevention plan (SWP3) in accordance with the TPDES CGP TXR150000. In arid, semiarid, and drought-stricken areas, as determined by the permittee, where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permittee. As an alternative, vegetative stabilization measures may be implemented as soon as practicable.
- (3) Prohibited Discharges - The following discharges are prohibited:

- a. Wastewater from washout of concrete and wastewater from water well drilling operations, unless managed by an appropriate control;
- b. Wastewater from washout and cleanout of stucco, paint, from release oils, and other construction materials;
- c. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and,
- d. Soaps or solvents used in vehicle and equipment washing;
- e. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, unless managed by appropriate BMPs.

(4) Construction Plan Review Procedures

To the extent allowable by state, federal, and local law, all permittees shall maintain and implement site plan review procedures, that describe which plans will be reviewed as well as when an operator may begin construction. For those permittees without legal authority to enforce site plan reviews, this requirement is limited to those sites operated by the permittee and its contractors and located within the permittee's regulated area. The site plan procedures must meet the following minimum requirements:

- a. The site plan review procedures must incorporate consideration of potential water quality impacts.
- b. The permittee may not approve any plans unless the plans contain appropriate site specific construction site control measures that, at a minimum, meet the requirements described in Part III.B.3.(a) or in the TPDES CGP, TXR150000.

The permittee may require and accept a plan, such as a SWP3, that has been developed pursuant to the CGP, TXR150000.

(5) Construction Site Inspections and Enforcement

To the extent allowable by state, federal, and local law, all permittees shall implement procedures for inspecting large and small construction projects. Permittees without legal authority to inspect construction sites shall at a minimum conduct inspections of sites operated by the permittee or its contractors and that are located in the permittee's regulated area.

- a. Inspections must occur at a frequency determined by the permittee, based on the evaluation of factors that are a threat to water quality, such as: soil erosion potential; site slope; project size and type; sensitivity of receiving waterbodies; proximity to receiving waterbodies; non-stormwater discharges; and past record of non-compliance by the operators of the construction site.
- b. Inspections must occur during the active construction phase.
 - (i) All permittees shall develop, implement, and revise as necessary, written procedures outlining the inspection and enforcement requirements. These procedures must be maintained on site or in the SWMP and be made available to TCEQ.
 - (ii) Inspections of construction sites must, at a minimum:

1. Determine whether the site has appropriate coverage under the TPDES CGP, TXR150000. If no coverage exists, notify the permittee of the need for permit coverage.
 2. Conduct a site inspection to determine if control measures have been selected, installed, implemented, and maintained according to the small MS4's requirements.
 3. Assess compliance with the permittee's ordinances and other regulations.
 4. Provide a written or electronic inspection report.
- c. Based on site inspection findings, all permittees shall take all necessary follow-up actions (for example, follow-up-inspections or enforcement) to ensure compliance with permit requirements and the SWMP. These follow-up and enforcement actions must be tracked and maintained for review by the TCEQ.

For non-traditional small MS4s with no enforcement powers, the permittee shall notify the adjacent MS4 operator with enforcement authority or the TCEQ's Field Operations Support Division according to Part III.A.3(b).

(6) Information submitted by the Public

All permittees shall develop, implement and maintain procedures for receipt and consideration of information submitted by the public.

(7) MS4 Staff Training

All permittees shall ensure that all staff whose primary job duties are related to implementing the construction stormwater program (including permitting, plan review, construction site inspections, and enforcement) are informed or trained to conduct these activities. The training may be conducted by the permittee or by outside trainers.

(c) Additional Requirements for Level 3 and 4 small MS4s

In addition to the requirements described in Parts III.B.3(b)(1)-(7) above, permittees who operate level 3 and 4 small MS4s shall meet the following requirements:

(1) Construction Site Inventory

Permittees who operate level 3 and 4 small MS4s shall maintain an inventory of all permitted active public and private construction sites, that result in a total land disturbance of one or more acres or that result in a total land disturbance of less than one acre if part of a larger common plan or development or sale. Notification to the small MS4 should be made by submittal of a copy of an NOI or a small construction site notice. The permittee shall make this inventory available to the TCEQ upon request.

4. Post-Construction Stormwater Management in New Development and Redevelopment

(a) Post-Construction Stormwater Management Program

- (1) All permittees shall develop, implement and enforce a program, to the extent allowable under state, federal, and local law, to control stormwater discharges from new development and redeveloped sites that discharge into the small MS4 that disturb one acre or more, including projects that disturb less than one acre

that are part of a larger common plan of development or sale. The program must be established for private and public development sites. The program may utilize an offsite mitigation and payment in lieu of components to address this requirement.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of the permit term.

- (2) All permittees shall use, to the extent allowable under state, federal, and local law and local development standards, an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects. The permittees shall establish, implement, and enforce a requirement, that owners or operators of new development and redeveloped sites design, install, implement, and maintain a combination of structural and non-structural BMPs appropriate for the community and that protects water quality. If the construction of permanent structures is not feasible due to space limitations, health and safety concerns, cost effectiveness, or highway construction codes, the permittee may propose an alternative approach to TCEQ. Newly regulated permittees shall have the program element fully implemented by the end of the permit term.

(b) Requirements for all Permittees

All permittees shall include the requirements described below in Parts III.B.4.(b)(1)-(3)

- (1) All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2.. Any changes must be included in the annual report. Such written procedures must be maintained either on site or in the SWMP and made available for inspection by TCEQ.
- (2) All permittees shall document and maintain records of enforcement actions and make them available for review by the TCEQ.
- (3) Long-Term Maintenance of Post-Construction Stormwater Control Measures

All permittees shall, to the extent allowable under state, federal, and local law, ensure the long-term operation and maintenance of structural stormwater control measures installed through one or both of the following approaches:

- a. Maintenance performed by the permittee. See Part III.B.5
- b. Maintenance performed by the owner or operator of a new development or redeveloped site under a maintenance plan. The maintenance plan must be filed in the real property records of the county in which the property is located. The permittee shall require the owner or operator of any new development or redeveloped site to develop and implement a maintenance plan addressing maintenance requirements for any structural control measures installed on site. The permittee shall require operation and maintenance performed is documented and retained on site, such as at the offices of the owner or operator, and made available for review by the small MS4.

(c) Additional Requirements for Level 4 small MS4s

In addition to the requirements described in Parts III.B.5(b)(1)-(3) above, permittees who operate level 4 small MS4s shall meet the following requirements:

- (1) Inspections - Permittees who operate level 4 small MS4s shall develop and implement an inspection program to ensure that all post construction stormwater control measures are operating correctly and are being maintained as required consistent with its applicable maintenance plan. For small MS4s with limited enforcement authority, this requirement applies to the structural controls owned and operated by the small MS4 or its contractors that perform these activities within the small MS4's regulated area.
 - a. Inspection Reports - The permittee shall document its inspection findings in an inspection report and make them available for review by the TCEQ.

5. Pollution Prevention and Good Housekeeping for Municipal Operations

(a) Program development

- (1) All permittees shall develop and implement an operation and maintenance program, including an employee training component that has the ultimate goal of preventing or reducing pollutant runoff from municipal activities and municipally owned areas including but not limited to park and open space maintenance; street, road, or highway maintenance; fleet and building maintenance; stormwater system maintenance; new construction and land disturbances; municipal parking lots; vehicle and equipment maintenance and storage yards; waste transfer stations; and salt/sand storage locations.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharges of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. See also Part III.A.1.(c)

(b) Requirements for all Permittees

All permittees shall include the requirements described below in Parts III.B.5.(1)-(6) in the program:

(1) Permittee-owned Facilities and Control Inventory

All permittees shall develop and maintain an inventory of facilities and stormwater controls that it owns and operates within the regulated area of the small MS4. If feasible, the inventory may include all applicable permit numbers, registration numbers, and authorizations for each facility or controls. The inventory must be available for review by TCEQ and must include, but is not limited, to the following, as applicable:

- a. Composting facilities;
- b. Equipment storage and maintenance facilities;
- c. Fuel storage facilities;
- d. Hazardous waste disposal facilities;
- e. Hazardous waste handling and transfer facilities;
- f. Incinerators;
- g. Landfills;
- h. Materials storage yards;

- i. Pesticide storage facilities;
 - j. Buildings, including schools, libraries, police stations, fire stations, and office buildings;
 - k. Parking lots;
 - l. Golf courses;
 - m. Swimming pools;
 - n. Public works yards;
 - o. Recycling facilities;
 - p. Salt storage facilities;
 - q. Solid waste handling and transfer facilities;
 - r. Street repair and maintenance sites;
 - s. Vehicle storage and maintenance yards; and
 - t. Structural stormwater controls.
- (2) Training and Education
- All permittees shall inform or train appropriate employees involved in implementing pollution prevention and good housekeeping practices. All permittees shall maintain a training attendance list for inspection by TCEQ when requested.
- (3) Disposal of Waste Material - Waste materials removed from the small MS4 must be disposed of in accordance with 30 TAC Chapters 330 or 335, as applicable.
- (4) Contractor Requirements and Oversight
- a. Any contractors hired by the permittee to perform maintenance activities on permittee-owned facilities must be contractually required to comply with all of the stormwater control measures, good housekeeping practices, and facility-specific stormwater management operating procedures described in Parts III B.5.(2)-(6).
 - b. All permittees shall provide oversight of contractor activities to ensure that contractors are using appropriate control measures and SOPs. Oversight procedures must be developed before the end of the permit term and maintained on site and made available for inspection by TCEQ.
- (5) Municipal Operation and Maintenance Activities
- a. Assessment of permittee-owned operations
- All permittees shall evaluate operation and maintenance (O&M) activities for their potential to discharge pollutants in stormwater, including but not limited to:
- (i) Road and parking lot maintenance may include such areas as pothole repair, pavement marking, sealing, and re-paving;
 - (ii) Bridge maintenance may include such areas as re-chipping, grinding, and saw cutting;

- (iii) Cold weather operations, including plowing, sanding, and application of deicing and anti-icing compounds and maintenance of snow disposal areas; and
 - (iv) Right-of-way maintenance, including mowing, herbicide and pesticide application, and planting vegetation.
 - b. All permittees shall identify pollutants of concern that could be discharged from the above O&M activities (for example, metals; chlorides; hydrocarbons such as benzene, toluene, ethyl benzene, and xylenes; sediment; and trash).
 - c. All permittees shall develop and implement a set of pollution prevention measures that will reduce the discharge of pollutants in stormwater from the above activities. These pollution prevention measures may include the following examples:
 - (i) Replacing materials and chemicals with more environmentally benign materials or methods;
 - (ii) Changing operations to minimize the exposure or mobilization of pollutants to prevent them from entering surface waters; and
 - (iii) Placing barriers around or conducting runoff away from deicing chemical storage areas to prevent discharge into surface waters.
 - d. Inspection of pollution prevention measures - All pollution prevention measures implemented at permittee-owned facilities must be visually inspected at a frequency determined by the permittee to ensure they are working properly. A log of inspections must be maintained and made available for review by the TCEQ upon request.

(6) Structural Control Maintenance

If BMPs include structural controls, maintenance of the controls must be performed at a frequency determined by the permittee and consistent with maintaining the effectiveness of the BMP.

(c) Additional Requirements for Level 3 and 4 small MS4s:

In addition to the requirements described in Parts.B.5.(b)(1)-(6) above, permittees who operate level 3 or 4 small MS4s shall meet the following requirements:

(1) Storm Sewer System Operation and Maintenance

- a. Permittees who operate level 3 or 4 small MS4s shall develop and implement an O&M program to reduce to the maximum extent practicable the collection of pollutants in catch basins and other surface drainage structures.
- b. Permittees who operate level 3 or 4 small MS4s shall develop a list of potential problem areas. The permittees shall identify and prioritize problem areas for increased inspection (for example, areas with recurrent illegal dumping).

(2) Operation and Maintenance Program to Reduce Discharges of Pollutants from Roads

Permittees who operate level 3 or 4 small MS4s shall implement an O&M program that includes, if feasible and practicable, a street sweeping and cleaning program, or an equivalent BMP such as an inlet protection program, which must include an implementation schedule and a waste disposal procedure. The basis for the

decision must be included in the SWMP. If a street sweeping and cleaning program is implemented, the permittee shall evaluate the following permittee-owned and operated areas for the program: streets, road segments, and public parking lots including, but not limited to, high traffic zones, commercial and industrial districts, sport and event venues, and plazas, as well as areas that consistently accumulate high volumes of trash, debris, and other stormwater pollutants.

- a. Implementation schedules – If a sweeping program is implemented, the permittee shall sweep the areas in the program (for example, the streets, roads, and public parking lots) in accordance with a frequency and schedule determined in the permittee's O&M program.
- b. For areas where street sweeping is technically infeasible (for example, streets without curbs), the permittee shall focus implementation of other trash and litter control procedures, or provide inlet protection measures to minimize pollutant discharges to storm drains and creeks.
- c. Sweeper Waste Material Disposal – If utilizing street sweepers, the permittee shall develop a procedure to dewater and dispose of street sweeper waste material and shall ensure that water and material will not reenter the small MS4.

(3) Mapping of Facilities

Permittees who operate level 3 or 4 small MS4s shall, on a map of the area regulated under this general permit, identify where the permittee-owned and operated facilities and stormwater controls are located.

(4) Facility Assessment

Permittees who operate level 3 or 4 small MS4s shall perform the following facility assessment in the regulated portion of the small MS4 operated by the permittee:

- a. Assessment of Facilities' Pollutant Discharge Potential - The permittee shall review the facilities identified in Part III.B.5.(b) once per permit term for their potential to discharge pollutants into stormwater.
- b. Identification of *high priority* facilities - Based on the Part III.B.5.(c)(4)a. assessment, the permittee shall identify as *high priority* those facilities that have a high potential to generate stormwater pollutants and shall document this in a list of these facilities. Among the factors that must be considered in giving a facility a high priority ranking are the amount of urban pollutants stored at the site, the identification of improperly stored materials, activities that must not be performed outside (for example, changing automotive fluids, vehicle washing), proximity to waterbodies, proximity to sensitive aquifer recharge features, poor housekeeping practices, and discharge of pollutant(s) of concern to impaired water(s). High priority facilities must include, at a minimum, the permittee's maintenance yards, hazardous waste facilities, fuel storage locations, and any other facilities at which chemicals or other materials have a high potential to be discharged in stormwater.
- c. Documentation of Assessment Results - The permittee shall document the results of the assessments and maintain copies of all site evaluation checklists used to conduct the assessments. The documentation must include the results of the permittee's initial assessment, and any identified deficiencies and corrective actions taken.

(5) Development of Facility Specific SOPs

Permittees who operate level 3 or 4 small MS4s shall develop facility specific stormwater management SOPs. The permittee may utilize existing plans or documents that may contain the following required information:

- a. For each high priority facility identified in Part III.B.5.(c)(4)b., the permittee shall develop a SOP that identifies BMPs to be installed, implemented, and maintained to minimize the discharge of pollutants in stormwater from each facility.
- b. A hard or electronic copy of the facility-specific stormwater management SOP (or equivalent existing plan or document) must be maintained and be available for review by the TCEQ. The SOP must be kept on site when possible and must be updated as necessary.

(6) Stormwater Controls for High Priority Facilities

Permittees who operate level 3 or 4 small MS4s shall implement the following stormwater controls at all high priority facilities identified in Part III.B.5.(c)(4)b. A description of BMPs developed to comply with this requirement must be included in each facility specific SOP:

- a. General good housekeeping – Material with a potential to contribute to stormwater pollution should be sheltered from exposure to stormwater when feasible.
- b. De-icing and anti-icing material storage - The permittee shall ensure, to the MEP, that stormwater runoff from storage piles of salt and other de-icing and anti-icing materials is not discharged; or shall ensure that any discharges from the piles are authorized under a separate discharge permit.
- c. Fueling operations and vehicle maintenance - The permittee shall develop SOPs (or equivalent existing plans or documents) which address spill prevention and spill control at permittee-owned and operated vehicle fueling, vehicle maintenance, and bulk fuel delivery facilities.
- d. Equipment and vehicle washing - The permittee shall develop SOPs that address equipment and vehicle washing activities at permittee-owned and operated facilities. The discharge of equipment and vehicle wash water to the small MS4 or directly to receiving waters from permittee-owned facilities is not authorized under this general permit. To ensure that wastewater is not discharged under this general permit, the permittee's SOP may include installing a vehicle wash reclaim system, capturing and hauling the wastewater for proper disposal, connecting to sanitary sewer (where applicable and approved by local authorities), ceasing the washing activity, or applying for and obtaining a separate TPDES permit.

(7) Inspections

Permittees who operate level 3 or 4 small Ms4s shall develop and implement an inspection program, which at a minimum must include periodic inspections of high priority permittee-owned facilities. The results of the inspections and observations must be documented and available for review by the TCEQ.

(d) Additional Requirements for Level 4 small MS4s:

In addition to all the requirements described in Parts III.B.5(b) and III.B.5.(c) above, permittees who operate level 4 small MS4s shall meet the following requirements:

- (1) Pesticide, Herbicide, and Fertilizer Application and Management
 - a. Landscape maintenance - The permittee shall evaluate the materials used and activities performed on public spaces owned and operated by the permittee such as parks, schools, golf courses, easements, public rights of way, and other open spaces for pollution prevention opportunities. Maintenance activities for the turf landscaped portions of these areas may include mowing, fertilization, pesticide application, and irrigation. Typical pollutants include sediment, nutrients, hydrocarbons, pesticides, herbicides, and organic debris.
 - b. The permittee shall implement the following practices to minimize landscaping-related pollutant generation with regard to public spaces owned and operated by the permittee:
 - (i) Educational activities, permits, certifications, and other measures for the permittee's applicators and distributors.
 - (ii) Pest management measures that encourage non-chemical solutions where feasible. Examples may include:
 - (a) Use of native plants or xeriscaping;
 - (b) Keeping clippings and leaves out the small MS4 and the street by encouraging mulching, composting, or landfilling;
 - (c) Limiting application of pesticides and fertilizers if precipitation is forecasted within 24 hours, or as specified in label instructions;
 - (d) Reducing mowing of grass to allow for greater pollutant removal, but not jeopardizing motorist safety.
 - c. The permittee shall develop schedules for chemical application in public spaces owned and operated by the permittee that minimize the discharge of pollutants from the application due to irrigation and expected precipitation.
 - d. The permittee shall ensure collection and proper disposal of the permittee's unused pesticides, herbicides, and fertilizers.

6. Industrial Stormwater Sources

- (a) Permittees operating a level 4 small MS4 shall include the requirements described below in Part III. B.6.(1) – this requirement is only applicable to level 4 MS4s
 - (1) Permittees who operate level 4 small MS4s shall identify and control pollutants in stormwater discharges to the small MS4 from permittee's landfills; other treatment, storage, or disposal facilities for municipal waste (for example, transfer stations and incinerators); hazardous waste treatment, storage, disposal and recovery facilities and facilities that are subject to Emergency Planning and Community Right-to-Know Act (EPCRA) Title III, Section 313; and any other industrial or commercial discharge the permittee determines are contributing a substantial pollutant loading to the small MS4. The program must include priorities and procedures for inspections and for implementing control measures for such discharges.

7. Authorization for Construction Activities where the Small MS4 is the Site Operator

The development of this MCM for construction activities, where the small MS4 is the site operator, is optional and provides an alternative to the MS4 operator seeking coverage under TPDES CGP, TXR150000 for each construction activity. Permittees that choose to develop this measure will be authorized to discharge stormwater and certain non-stormwater from construction activities where the MS4 operator meets the definition of a construction site operator in Part I of this general permit. When developing this measure, permittees are required to meet all requirements of, and be consistent with, applicable effluent limitation guidelines for the Construction and Development industry (40 CFR Part 450), TPDES CGP TXR150000, and Part III.B.3 of this permit. The authorization to discharge under this MCM is limited to the regulated area, such as the portion of the small MS4 located within a UA or the area designated by TCEQ as requiring coverage. However, an MS4 operator may also utilize this MCM over additional portions of their small MS4 that are also in compliance with all of the MCMs listed in this general permit. This MCM must be developed as a part of the SWMP that is submitted with the NOI for permit coverage. If this MCM is developed after submitting the initial NOI, a NOC must be submitted notifying the executive director of this change, and identifying the geographical area or boundary where the activities will be conducted under the provisions of this general permit. Utilization of this MCM does not preclude a small MS4 from obtaining coverage under the TPDES CGP, TXR150000, or under an individual TPDES permit.

This MCM is only available for projects where the small MS4 is a construction site operator or owner, and the MCM does not provide any authorization for other construction site operators at a municipal project.

Controls required under this MCM must be implemented prior to discharge from a municipal construction site into surface water in the state.

(a) The MCM must include:

- (1) A description of how construction activities will generally be conducted by the permittee so as to take into consideration local conditions of weather, soils, and other site specific considerations;
- (2) A description of the area that this MCM will address and where the permittee's construction activities are covered (for example within the boundary of the urbanized area, the corporate boundary, a special district boundary, an extra territorial jurisdiction, or other similar jurisdictional boundary);
- (3) Either a description of how the permittee will supervise or maintain oversight over contractor activities to ensure that the SWP3 requirements are properly implemented at the construction site; or how the permittee will make certain that contractors have a separate authorization for stormwater discharges;
- (4) A general description of how a SWP3 will be developed for each construction site, according to Part VI of this general permit, "Authorization for Municipal Construction Activities"; and
- (5) Records of municipal construction activities authorized under this optimal MCM, in accordance with Part VI of this general permit.

Section C. General Requirements

Permittees shall provide information in the SWMP documenting the development and implementation of the program. At a minimum, the documentation must include:

1. A list of any public or private entities assisting with the development or implementation of the SWMP;
2. If applicable, a list of all MS4 operators contributing to the development and implementation of the SWMP, including a clear description of the contribution;
3. A list of all BMPs and measurable goals for each of the MCMs;
4. A schedule for the implementation of all SWMP requirements. The schedule must include, as appropriate, the months and years in which the permittee will undertake required actions, including interim milestones and the frequency of the action throughout the permit term.
5. A description of how each measurable goal will be evaluated; and
6. A rationale statement that addresses the overall program, including how the BMPs and measurable goals were selected.

Part IV. Recordkeeping and Reporting**Section A. Recordkeeping**

1. The permittee shall retain all records, a copy of this TPDES general permit, and records of all data used to complete the application (NOI) for this general permit and satisfy the public participation requirements, for a period of at least three (3) years, or for the remainder of the term of this general permit, whichever is longer. This period may be extended by request of the executive director at any time.
2. The permittee shall submit the records to the executive director only when specifically asked to do so. The SWMP required by this general permit (including a copy of the general permit) must be retained at a location accessible to the TCEQ.
3. The permittee shall make the NOI and the SWMP available to the public at reasonable times during regular business hours, if requested to do so in writing. Copies of the SWMP must be made available within ten (10) working days of receipt of a written request. Other records must be provided in accordance with the Texas Public Information Act. However, all requests for records from federal facilities must be made in accordance with the Freedom of Information Act.
4. The period during which records are required to be kept shall be automatically extended to the date of the final disposition of any administrative or judicial enforcement action that may be instituted against the permittee.

Section B. Reporting**1. General Reporting Requirements****(a) Noncompliance Notification**

According to 30 TAC § 305.125(9), any noncompliance which may endanger human health or safety, or the environment, must be reported by the permittee to the TCEQ. Report of such information must be provided orally or by electronic facsimile

transmission (FAX) to the TCEQ regional office within 24 hours of becoming aware of the noncompliance. A written report must be provided by the permittee to the appropriate TCEQ regional office and to the TCEQ Enforcement Division (MC-224) within five working days of becoming aware of the noncompliance. The written report must contain:

- (1) A description of the noncompliance and its cause;
- (2) The potential danger to human health or safety, or the environment;
- (3) The period of noncompliance, including exact dates and times;
- (4) If the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- (5) Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

(b) Other Information

When the permittee becomes aware that it either submitted incorrect information or failed to submit complete and accurate information requested in an NOI, NOT, or NOC, or any other report, the permittee shall promptly submit the facts or information to the executive director.

2. Annual Report

The MS4 operator shall submit a concise annual report to the executive director within 90 days of the end of each reporting year. For the purpose of this section, the reporting year may include either the permit year, the permittee's fiscal year or the calendar year, as elected by the small MS4 and notified to the TCEQ in the application submittal. The annual report must address the previous reporting year.

The first reporting year for annual reporting purposes shall begin on the permit effective date, and shall last for a period of one (1) year (the end of the "permit year"). Alternatively, if the permittee elects to report based on its fiscal year, the first reporting year will last until the end of the fiscal year following the end of the first permit year. If the permittee elects to report based on the calendar year, then the first reporting year will last until December 31, 2014.

Subsequent calendar years will begin at the beginning of the first reporting year (which will vary based on the previous paragraph) and last for one (1) year. The MS4 operator shall also make a copy of the annual report readily available for review by TCEQ personnel upon request. The report must include:

- (a) The status of the compliance with permit conditions, an assessment of the appropriateness of the identified BMPs, progress towards achieving the statutory goal of reducing the discharge of pollutants to the MEP, the measurable goals for each of the MCMs, and an evaluation of the success of the implementation of the measurable goals;
- (b) A summary of the results of information collected and analyzed, during the reporting period, including monitoring data used to assess the success of the program at reducing the discharge of pollutants to the MEP;
- (c) If applicable, a summary of any activities taken to address the discharge to impaired waterbodies, including any sampling results and a summary of the small MS4s BMPs used to address the pollutant of concern;

- (d) A summary of the stormwater activities the MS4 operator plans to undertake during the next reporting year;
- (e) Proposed changes to the SWMP, including changes to any BMPs or any identified measurable goals that apply to the program elements;
- (f) Description and schedule for implementation of additional BMP's that may be necessary, based on monitoring results, to ensure compliance with applicable TMDLs and implementations plans;
- (g) Notice that the MS4 operator is relying on another government entity to satisfy some of its permit obligations (if applicable);
- (h) The number of construction activities where the small MS4 is the operator and authorized under the 7th optional MCM, including the total number of acres disturbed; and
- (i) The number of construction activities that occurred within the jurisdictional area of the small MS4 (as noticed to the permittee by the construction operator), and that were not authorized under the 7th MCM.

An annual report must be prepared whether or not the NOI and SWMP have been approved by the TCEQ. If the permittee has either not implemented the SWMP or not begun to implement the SWMP because it has not received approval of the NOI and SWMP, then the annual report may include that information.

If permittees share a common SWMP, they shall contribute to and submit a single system-wide report. Each permittee shall sign and certify the annual report in accordance with 30 TAC § 305.128 (relating to Signatories to Reports).

The annual report must be submitted with the appropriate TCEQ reporting forms if available, or as otherwise approved by TCEQ.

The annual report must be submitted to the following address:

Texas Commission on Environmental Quality
Stormwater & Pretreatment Team; MC - 148
P.O. Box 13087
Austin, Texas 78711-3087

A copy of the annual report must also be submitted to the TCEQ Regional Office that serves the area of the regulated small MS4.

If available, electronic submission of annual reports is encouraged. The Federal Waste Reduction Act and the Government Paperwork Elimination Act encourages governmental agencies to use electronic submission. See the TCEQ website at, www.tceq.texas.gov for additional information and instructions.

Part V. Standard Permit Conditions

- A. The permittee has a duty to comply with all permit conditions. Failure to comply with any permit condition is a violation of the general permit and statutes under which it was issued, and is grounds for enforcement action, for terminating coverage under this general permit, or for requiring a discharger to apply for and obtain an individual TPDES permit.

- B. It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- C. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- D. Authorization under this general permit may be suspended or revoked for cause. Filing a notice of planned changes or anticipated non-compliance by the permittee does not stay any permit condition. The permittee shall furnish to the executive director, upon request and within a reasonable timeframe, any information necessary for the executive director to determine whether cause exists for modifying, revoking, suspending, reissuing or terminating authorization under this general permit. Additionally, the permittee shall provide to the executive director, upon request, copies of all records that the permittee shall maintain as a condition of this general permit.
- E. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used to achieve compliance with the conditions of this permit and with the condition of the permittee's SWMP. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed only when the operation is necessary to achieve compliance with the conditions of this permit.
- F. Inspection and entry shall be allowed under the TWC Chapters 26-28, Health and Safety Code §§ 361.032-361.033 and 361.037, and 40 CFR §122.41(i). The statement in TWC § 26.014 that commission entry of a facility shall occur according to an establishment's rules and regulations concerning safety, internal security, and fire protection is not grounds for denial or restriction of entry to any part of the facility or site, but merely describes the commission's duty to observe appropriate rules and regulations during an inspection.
- G. The discharger is subject to administrative, civil, and criminal penalties, as applicable, under the TWC, Chapters 26, 27, and 28, and the Texas Health and Safety Code, Chapter 361 for violations including but not limited to the following:
 - 1. Negligently or knowingly violating CWA, §§ 301, 302, 303, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under CWA, § 402; and
 - 2. Knowingly making any false statement, representation, or certification in any record or other document submitted or required to be maintained under a permit, including monitoring reports or reports of compliance or noncompliance.
- H. All reports and other information requested by or submitted to the executive director must be signed by the person and in the manner required by 30 TAC § 305.128 (relating to Signatories to Reports).
- I. Authorization under this general permit does not convey property or water rights of any sort and does not grant any exclusive privilege.

- J. The permittee shall implement its SWMP on any new areas under its jurisdiction that are located in a UA or that are designated by the TCEQ. Implementation of the SWMP in these areas is required the greater of three (3) years from acquiring the new area, or five (5) years from the date of initial permit coverage.

Part VI. Authorization for Municipal Construction Activities – Applicable only if the 7th Optional MCM is selected

The MS4 operator may obtain authorization under TPDES CGP, TXR150000 to discharge stormwater runoff from each construction activity performed by the MS4 operator that results in a land disturbance of one (1) acre or more of land or less than one (1) acre of land, if the construction activity is part of a larger common plan of development or sale that would disturb one acre or more. Alternatively, the MS4 operator may develop the SWMP to include the optional seventh (7th) stormwater MCM listed in Part III.B.7 of this general permit if the eligibility requirements in Part VI.A. below are met. If an MS4 operator decides to utilize this MCM, then the MS4 operator must include this MCM in its SWMP submitted with the NOI or submit an NOC notifying the executive director of the addition of this MCM to its SWMP. The MS4 operator must identify the geographic area or boundary where the construction activities will be conducted under the provisions of this general permit. If the permittee meets the terms and requirements of this general permit, then discharges from these construction activities may be authorized under this general permit as long as they occur within the regulated geographic area of the small MS4. An MS4 operator may utilize this MCM over additional portions of their small MS4 if those areas are also in compliance with all MCMs listed in this general permit. Even if an MS4 operator has developed this optional seventh stormwater MCM, the MS4 operator may apply under TPDES CGP TXR150000 for authorization for particular municipal construction activities including those activities that occur during periods of low potential for erosion (for which no SWP3 must be developed).

Section A. Eligible Construction Sites

Discharges from construction activities within the regulated area where the MS4 operator meets the definition of construction site operator are eligible for authorization under this general permit. Discharges from construction activities outside of the regulated area, where the MS4 operator meets the definition of construction site operator, are only eligible for authorization under this general permit in those areas where the MS4 operator meets the requirements of Parts III.B.1. through III.B.6 of this general permit, related to MCMs.

Section B. Discharges Eligible for Authorization

1. Stormwater Associated with Construction Activity

Discharges of stormwater runoff from small and large construction activities may be authorized under this general permit.

2. Discharges of Stormwater Associated with Construction Support Activities

Discharges of stormwater runoff from construction support activities, including concrete batch plants, asphalt batch plants, equipment staging areas, material storage yards, material borrow areas, and excavated material disposal areas may be authorized under this general permit provided:

- (a) The activity is located within a one-mile distance from the boundary of the permitted construction site and directly supports the construction activity;
- (b) A SWP3 is developed according to the provisions of this general permit and includes appropriate controls and measures to control sediment and erosion and discharge of pollutants in stormwater runoff from the supporting construction activity site;
- (c) The construction support activity either does not operate beyond the completion date of the construction activity or obtains separate TPDES authorization for discharges as required; and
- (d) Discharge of stormwater from concrete production facilities must meet the requirements in Section E below

3. Non-Stormwater Discharges

The following non-stormwater discharges from construction sites authorized under this general permit are also eligible for authorization under this MCM:

- (a) Discharges from emergency fire fighting activities (fire fighting activities do not include washing of trucks, run-off water from training activities, test water from fire suppression systems, and similar activities);
- (b) Uncontaminated fire hydrant flushings (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life), which include flushings from systems that utilize potable water, surface water, or groundwater that does not contain additional pollutants (uncontaminated fire hydrant flushings do not include systems utilizing reclaimed wastewater as a source water);
- (c) Water from the routine external washing of vehicles, the external portion of buildings or structures, and pavement, where detergents and soaps are not used and where spills or leaks of toxic or hazardous materials have not occurred (unless spilled materials have been removed; and if local state, or federal regulations are applicable, the materials are removed according to those regulations), and where the purpose is to remove mud, dirt, or dust;
- (d) Uncontaminated water used to control dust;
- (e) Potable water sources including waterline flushings (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life);
- (f) Uncontaminated air conditioning condensate; and
- (g) Uncontaminated ground water or spring water, including foundation or footing drains where flows are not contaminated with industrial materials such as solvents.

4. Other Permitted Discharges

Any discharge authorized under a separate TPDES or TCEQ permit may be combined with discharges from construction sites operated by the small MS4, provided the discharge complies with the associated permit.

Section C. Limitations on Permit Coverage

Discharges that occur after construction activities have been completed, and after the construction site and any supporting activity site have undergone final stabilization, are not eligible for coverage under Part VI of the general permit.

Section D. Stormwater Pollution Prevention Plan (SWP3) Requirements

Operators of municipal construction activities that qualify for coverage under this general permit and that discharge stormwater associated with construction activities into surface water in the state must:

1. Develop a SWP3 according to the provisions of this general permit that covers the entire site and begin implementation of that plan prior to commencing construction activities;
2. Post a signed copy of a TCEQ approved site notice in a location at the construction site where it is readily available for viewing prior to commencing construction activities and maintain the notice in that location until completion of the construction activity and final stabilization of the site;
3. Ensure the project specifications allow or provide that adequate BMPs may be developed and modified as necessary to meet the requirements of this general permit and the SWP3;
4. Ensure all contractors are aware of the SWP3 requirements, are aware that municipal personnel are responsible for the day-to-day operations of the SWP3, and who to contact concerning SWP3 requirements; and
5. Ensure that the SWP3 identifies the municipal personnel responsible for implementation of control measures described in the plan.

Section E. Stormwater Runoff from Concrete Batch Plants

Discharges of stormwater runoff from concrete batch plants at regulated construction sites may be authorized under the provisions of this general permit provided that the following requirements are met for concrete batch plant(s) authorized under this permit. If discharges of stormwater runoff from concrete batch plants are not covered under this general permit, then discharges must be authorized under an alternative general permit or an individual permit. This permit does not authorize the discharge or land disposal of any wastewater from concrete batch plants at regulated construction sites. Authorization for these wastes must be obtained under an individual permit or an alternative general permit.

1. Benchmark Sampling Requirements

- (a) Operators of concrete batch plants authorized under this section must sample the stormwater runoff from the concrete batch plants according to the requirements of this section of the general permit, and must conduct evaluations of the effectiveness of the SWP3 based on the following benchmark monitoring values:

Table 1. Benchmark Monitoring

Benchmark Parameters	Benchmark Value	Sampling Frequency	Sample Type
Oil and Grease	15 mg/L	1/quarter (*1)(*2)	Grab (*3)

Benchmark Parameters	Benchmark Value	Sampling Frequency	Sample Type
Total Suspended Solids	100 mg/L	1/quarter (*1)(*2)	Grab (*3)
pH	6.0-9.0 S.U.	1/quarter (*1)(*2)	Grab (*3)
Total Iron	1.3 mg/L	1/quarter (*1)(*2)	Grab (*3)

(*1) When discharge occurs. Sampling is required within the first 30 minutes of discharge. If it is not practicable to take the sample, or to complete the sampling, within the first 30 minutes, sampling must be completed within the first hour of discharge. If sampling is not completed within the first 30 minutes of discharge, the reason must be documented and attached to all required reports and records of the sampling activity.

(*2) Sampling must be conducted at least once during each of the following periods. The first sample must be collected during the first full quarter that a stormwater discharge occurs from a concrete batch plant authorized under this general permit.

- January through March
- April through June
- July through September
- October through December

For projects lasting less than one full quarter, a minimum of one sample shall be collected, provided that a stormwater discharge occurred at least once following submission of the NOI.

(*3) A grab sample shall be collected from the stormwater discharge resulting from a storm event that is at least 0.1 inches of measured precipitation that occurs at least 72 hours from the previously measurable storm event. The sample shall be collected downstream of the concrete batch plant, and where the discharge exits any BMPs utilized to handle the runoff from the batch plant, prior to commingling with any other water authorized under this general permit.

(b) The permittee shall compare the results of sample analyses to the benchmark values above, and must include this comparison in the overall assessment of the SWP3's effectiveness. Analytical results that exceed a benchmark value are not a violation of this permit, as these values are not numeric effluent limitations. Results of analyses are indicators that modifications of the SWP3 should be assessed and may be necessary to protect water quality. The operator must investigate the cause for each exceedance and must document the results of this investigation in the SWP3 by the end of the quarter following the sampling event.

The operator's investigation must identify the following:

- (1) Any additional potential sources of pollution, such as spills that might have occurred;
- (2) Necessary revisions to good housekeeping measures that are part of the SWP3;
- (3) Additional BMPs, including a schedule to install or implement the BMPs; and

- (4) Other parts of the SWP₃ that may require revisions in order to meet the goal of the benchmark values.

Background concentrations of specific pollutants may also be considered during the investigation. If the operator is able to relate the cause of the exceedance to background concentrations, then subsequent exceedances of benchmark values for that pollutant may be resolved by referencing earlier findings in the SWP₃. Background concentrations may be identified by laboratory analyses of samples of stormwater run-on to the permitted facility, by laboratory analyses of samples of stormwater run-off from adjacent non-industrial areas, or by identifying the pollutant is a naturally occurring material in soils at the site.

2. BMPs and SWP₃ Requirements

Minimum Stormwater Pollution Prevention Plan (SWP₃) Requirements - The following are required in addition to other SWP₃ requirements listed in this section:

- (a) Description of Potential Pollutant Sources - The SWP₃ must provide a description of potential sources (activities and materials) that may reasonably be expected to affect the quality of stormwater discharges associated with concrete batch plants authorized under this permit. The SWP₃ must describe practices that that will be used to reduce the pollutants in these discharges to assure compliance with this general permit, including the protection of water quality, and must ensure the implementation of these practices. The following must be developed, at a minimum, in support of developing this description:
- (1) Drainage – The site map must include the following information:
 - a. The location of all outfalls for stormwater discharges associated with concrete batch plants that are authorized under this permit;
 - b. A depiction of the drainage area and the direction of flow to the outfall(s);
 - c. Structural controls used within the drainage area(s);
 - d. The locations of the following areas associated with concrete batch plants that are exposed to precipitation: vehicle and equipment maintenance activities (including fueling, repair, and storage areas for vehicles and equipment scheduled for maintenance); areas used for the treatment, storage, or disposal of wastes listed in the TPDES Construction General Permit TXR150000; liquid storage tanks; material processing and storage areas; and loading and unloading areas; and
 - e. The locations of the following: any bag house or other dust control device(s); recycle or sedimentation pond, clarifier or other device used for the treatment of facility wastewater (including the areas that drain to the treatment device); areas with significant materials; and areas where major spills or leaks have occurred.
 - (2) Inventory of Exposed Materials – A list of materials handled at the concrete batch plant that may be exposed to stormwater and that have a potential to affect the quality of stormwater discharges associated with concrete batch plants that are authorized under this general permit.
 - (3) Spills and Leaks - A list of significant spills and leaks of toxic or hazardous pollutants that occurred in areas exposed to stormwater and that drain to

stormwater outfalls associated with concrete batch plants authorized under this general permit must be developed, maintained, and updated.

- (4) Sampling Data - A summary of existing stormwater discharge sampling data must be maintained, if available.
- (b) Measures and Controls - The SWP3 must include a description of management controls to regulate pollutants identified in the SWP3's "Description of Potential Pollutant Sources" from Part VI.E.2.(a) of this permit, and a schedule for implementation of the measures and controls. This must include, at a minimum:
 - (1) Good Housekeeping - Good housekeeping measures must be developed and implemented in the area(s) associated with concrete batch plants.
 - a. Operators must prevent or minimize the discharge of spilled cement, aggregate (including sand or gravel), settled dust, or other significant materials from paved portions of the site that are exposed to stormwater.

Measures used to minimize the presence of these materials may include regular sweeping or other equivalent practices. These practices must be conducted at a frequency that is determined based on consideration of the amount of industrial activity occurring in the area and frequency of precipitation, and shall occur at least once per week when cement or aggregate is being handled or otherwise processed in the area.
 - b. Operators must prevent the exposure of fine granular solids, such as cement, to stormwater. Where practicable, these materials must be stored in enclosed silos, hoppers or buildings, in covered areas, or under covering.
 - (2) Spill Prevention and Response Procedures - Areas where potential spills that can contribute pollutants to stormwater runoff, and the drainage areas from these locations, must be identified in the SWP3. Where appropriate, the SWP3 must specify material handling procedures, storage requirements, and use of equipment. Procedures for cleaning up spills must be identified in the SWP3 and made available to the appropriate personnel.
 - (3) Inspections - Qualified facility personnel (for example, a person or persons with knowledge of this general permit, the concrete batch plant, and the SWP3 related to the concrete batch plant(s) for the site) must be identified to inspect designated equipment and areas of the facility specified in the SWP3. The inspection frequency must be specified in the SWP3 based upon a consideration of the level of concrete production at the facility, but must be a minimum of once per month while the facility is in operation. The inspection must take place while the facility is in operation and must, at a minimum, include all areas that are exposed to stormwater at the site, including material handling areas, above ground storage tanks, hoppers or silos, dust collection or containment systems, truck wash down and equipment cleaning areas. Follow-up procedures must be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections must be maintained and be made readily available for inspection upon request.
 - (4) Employee Training - An employee training program must be developed to educate personnel responsible for implementing any component of the SWP3, or personnel otherwise responsible for stormwater pollution prevention, with the provisions of the SWP3. The frequency of training must be documented in the SWP3, and at a

minimum, must consist of one training prior to the initiation of operation of the concrete batch plant.

- (5) Record Keeping and Internal Reporting Procedures - A description of spills and similar incidents, plus additional information that is obtained regarding the quality and quantity of stormwater discharges, must be included in the SWP₃. Inspection and maintenance activities must be documented and records of those inspection and maintenance activities must be incorporated in the SWP₃.
 - (6) Management of Runoff - The SWP₃ shall contain a narrative consideration for reducing the volume of runoff from concrete batch plants by diverting runoff or otherwise managing runoff, including use of infiltration, detention ponds, retention ponds, or reusing of runoff.
- (c) Comprehensive Compliance Evaluation – At least once per year, one (1) or more qualified personnel (for example, a person or persons with knowledge of this general permit, the concrete batch plant, and the SWP₃ related to the concrete batch plant(s) for the site) shall conduct a compliance evaluation of the plant. The evaluation must include the following:
- (1) Visual examination of all areas draining stormwater associated with regulated concrete batch plants for evidence of, or the potential for, pollutants entering the drainage system. These include but are not limited to: cleaning areas, material handling areas, above ground storage tanks, hoppers or silos, dust collection or containment systems, and truck wash down and equipment cleaning areas. Measures implemented to reduce pollutants in runoff (including structural controls and implementation of management practices) must be evaluated to determine if they are effective and if they are implemented in accordance with the terms of this permit and with the permittee's SWP₃. The operator shall conduct a visual inspection of equipment needed to implement the SWP₃, such as spill response equipment.
 - (2) Based on the results of the evaluation, the following must be revised as appropriate within two (2) weeks of the evaluation: the description of potential pollutant sources identified in the SWP₃ (as required in Part VI.E.2(a), "Description of Potential Pollutant Sources"); and pollution prevention measures and controls identified in the SWP₃ (as required in Part VI.E.2.(b) "Measures and Controls"). The revisions may include a schedule for implementing the necessary changes.
 - (3) The permittee shall prepare and include in the SWP₃ a report summarizing the scope of the evaluation, the personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the SWP₃, and actions taken in response to the findings of the evaluation. The report must identify any incidents of noncompliance. Where the report does not identify incidences of noncompliance, the report must contain a statement that the evaluation did not identify any incidence(s), and the report must be signed according to 30 TAC Section 305.128, relating to Signatories to Reports.
 - (4) The Comprehensive Compliance Evaluation may substitute for one of the required inspections delineated in Part VI.E.2.(b)(3) of this general permit.

3. Prohibition of Wastewater Discharges

Wastewater discharges associated with concrete production including wastewater disposal by land application are not authorized under this general permit. These wastewater

discharges must be authorized under an alternative TCEQ water quality permit or otherwise disposed of in an authorized manner. Discharges of concrete truck washout at construction sites may be authorized if conducted in accordance with the requirements of Part VI of this general permit.

4. Concrete Truck Wash Out Requirements

This general permit authorizes the wash out of concrete trucks at construction sites regulated under this section of the general permit, provided the following requirements are met. Authorization is limited to the land disposal of wash out water from concrete trucks. Any other direct discharge of concrete production waste water must be authorized under a separate TCEQ general permit or individual permit.

- (a) Direct discharge of concrete truck wash out water to surface water in the state, including discharge to storm sewers, is prohibited by this general permit.
- (b) Concrete truck wash out water shall be discharged to areas at the construction site where structural controls have been established to prevent direct discharge to surface waters or to areas that have a minimal slope that allow infiltration and filtering of wash out water to prevent direct discharge to surface waters. Structural controls may consist of temporary berms, temporary shallow pits, temporary storage tanks with slow rate release, or other reasonable measures to prevent runoff from the construction site.
- (c) Wash out of concrete trucks during rainfall events shall be minimized. The direct discharge of concrete truck wash out water is prohibited at all times, and the operator shall insure that its BMPs are sufficient to prevent the discharge of concrete truck washout as the result of rain.
- (d) The discharge of wash out water shall not cause or contribute to groundwater contamination.
- (e) If a SWP3 is required to be implemented, the SWP3 shall include concrete wash out areas on the associated map.

Section F. Effective Date of Coverage

Construction activities may not commence under this section until the MS4 NOI and SWMP are approved in writing by the TCEQ. Following approval of the NOI and SWMP, operators of construction activities eligible for coverage under this general permit are authorized to discharge stormwater associated with construction activity immediately upon posting the signed construction site notice required under this section.

Section G. Deadlines for SWP3 Preparation and Compliance

The SWP3 must:

1. Be completed and initially implemented prior to commencing construction activities that result in soil disturbance;
2. Be updated as necessary to reflect the changing conditions of new contractors, new areas of responsibility, and changes in best management practices; and
3. Provide for compliance with the terms and conditions of this general permit.

Section H. Plan Review and Making Plans Available

The SWP₃ must be retained on-site at the construction site or made readily available at the time of an on-site inspection to: the executive director; a federal, state, or local agency approving sediment and erosion plans, grading plans, or stormwater management plans; and to local government officials.

Section I. Keeping Plans Current

The permittee shall amend the SWP₃ whenever either of the following occurs:

1. There is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants and that has not been previously addressed in the SWP₃; or
2. Results of inspections or investigations by site operators, authorized TCEQ personnel, or a federal, state or local agency approving sediment and erosion plans indicate the SWP₃ is proving ineffective in eliminating or significantly minimizing pollutants in discharges authorized under this general permit.

Section J. Contents of SWP₃

The SWP₃ must include, at a minimum, the information described in this section.

1. Site Description

A site description, or project description, which must include:

- (a) A description of the nature of the construction activity, potential pollutants and sources;
- (b) A description of the intended schedule or sequence of major activities that will disturb soils for major portions of the site;
- (c) The number of acres of the entire construction site property and the total number of acres of the site where construction activities will occur, including off-site material storage areas, overburden and stockpiles of dirt, and borrow areas;
- (d) Data describing the soil type or the quality of any discharge from the site;
- (e) A map showing the general location of the site (e.g. a portion of a city or county map);
- (f) A detailed site map indicating the following:
 - (1) Drainage patterns and approximate slopes anticipated after major grading activities;
 - (2) Areas where soil disturbance will occur;
 - (3) Locations of all major structural controls either planned or in place;
 - (4) Locations where temporary or permanent stabilization practices are expected to be used;
 - (5) Locations of construction support activities, including off-site activities that are authorized under the permittee's NOI, including material, waste, borrow, fill, or equipment storage areas;
 - (6) Surface waters (including wetlands) either at, adjacent, or in close proximity to the site;

- (7) Locations where stormwater discharges from the site directly to a surface water body or a MS4; and
- (8) Vehicle wash areas.
- (g) The location and description of asphalt plants and concrete plants (if any) providing support to the construction site and that are also authorized under this general permit;
- (h) The name of receiving waters at or near the site that will be disturbed or that will receive discharges from disturbed areas of the project; and
- (i) A copy of Part VI of this TPDES general permit.

2. Structural and non-structural controls

The SWP3 must describe the structural and the non-structural controls (best management practices) that will be used to minimize pollution in runoff. The description must identify the general timing or sequence for implementation and the party responsible for implementation. At a minimum, the description must include the following components:

- (a) Erosion and Sediment Controls
 - (1) Erosion and sediment controls must be designed to retain sediment on-site to the maximum extent practicable with consideration for local topography and rainfall.
 - (2) Control measures must be properly selected, installed, and maintained according to the manufacturer's or designer's specifications. If periodic inspections or other information indicates a control has been used incorrectly, or that the control is performing inadequately, the operator must replace or modify the control.
 - (3) Sediment must be removed from sediment traps and sedimentation ponds no later than the time that design capacity has been reduced by 50 per cent.
 - (4) If sediment escapes the site, accumulations must be removed at a frequency to minimize further negative effects and, whenever feasible, prior to the next rain event.
 - (5) Controls must be developed to limit offsite transport of litter, construction debris, and construction materials by stormwater runoff.

3. Stabilization Practices

The SWP3 must include a description of interim and permanent stabilization practices for the site, including a schedule of when the practices will be implemented. Site plans should ensure that existing vegetation is preserved where possible.

- (a) Stabilization practices may include but are not limited to: establishment of temporary vegetation, establishment of permanent vegetation, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of existing trees and vegetation and other similar measures.
- (b) The following records must be maintained and either attached to or referenced in the SWP3 and made readily available upon request to the parties in Part VI.H. of this general permit:
 - (1) The dates when major grading activities occur;
 - (2) The dates when construction activities temporarily or permanently cease on a portion of the site; and

- (3) The dates when stabilization measures are initiated.
- (c) Stabilization measures must be initiated immediately in portions of the site where construction activities have temporarily or permanently ceased, and will not resume for a period exceeding 14 calendar days, except as provided in (1) and (2) below.
 - (1) Where the initiation of stabilization measures by the 14th day after construction activity temporarily or permanently ceased is precluded by snow cover or frozen ground conditions, stabilization measures must be initiated as soon as practicable.
 - (2) Where the initiation of stabilization measures by the 14th day after construction activity has temporarily or permanently ceased is precluded by seasonably arid conditions, stabilization measures must be initiated as soon as practicable. These conditions exist in arid areas, semiarid areas, and areas experiencing drought conditions.

4. Structural Control Practices

The SWP₃ must include a description of any structural control practices used to divert flows away from exposed soils, to limit the contact of runoff with disturbed areas, or to lessen the off-site transport of eroded soils.

- (a) Sites with a drainage area of ten (10) or more acres:
 - (1) A sediment basin is required, where feasible, for a common drainage location that serves an area with ten (10) or more acres disturbed at one time. A sedimentation basin may be temporary or permanent, but must provide sufficient storage to contain a calculated volume of runoff from a 2-year, 24-hour storm from each disturbed acre drained. When calculating the volume of runoff from a 2-year, 24-hour storm event, it is not required to include the flows from off-site areas and flow from on-site areas that are either undisturbed or have already undergone final stabilization, if these flows are diverted around both the disturbed areas of the site and the sediment basin. Capacity calculations must be included in the SWP₃.
 - (2) Where rainfall data is not available or a calculation cannot be performed the sedimentation basin must provide at least 3,600 cubic feet of storage per acre drained until the site reaches final stabilization.
 - (3) If a sedimentation basin is not feasible, then the permittee shall provide equivalent control measures until the site reaches final stabilization. In determining whether installing a sediment basin is feasible, the permittee may consider factors such as site soils, slope, available area, public safety, precipitation pattern, site geometry, site vegetation, infiltration capacity, geotechnical factors, depth to groundwater, and other similar considerations. The permittee shall document the reason that the sediment basins are not feasible, and shall utilize equivalent control measures, which may include a series of smaller sediment basins.
 - (4) Perimeter Controls – At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries of the construction area, and for those side slope boundaries deemed appropriate as dictated by individual site conditions.
- (b) Controls for sites with drainage areas less than ten acres:
 - (1) Sediment traps and sediment basins may be used to control solids in stormwater runoff for drainage locations serving less than ten (10) acres. At a minimum, silt

fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries of the construction area, and for those side slope boundaries deemed appropriate as dictated by individual site conditions.

- (2) Alternatively, a sediment basin that provides storage for a calculated volume of runoff from a 2-year, 24-hour storm from each disturbed acre drained may be utilized. Where rainfall data is not available or a calculation cannot be performed, a temporary or permanent sediment basin providing 3,600 cubic feet of storage per acre drained may be provided. If a calculation is performed, then the calculation shall be included in the SWP3.

5. Permanent Stormwater Controls

A description of any measures that will be installed during the construction process to control pollutants in stormwater discharges that will occur after construction operations have been completed must be included in the SWP3. Permittees are only responsible for the installation and maintenance of stormwater management measures prior to final stabilization of the site.

6. Other Controls

- (a) Off-site vehicle tracking of sediments and the generation of dust must be minimized.
- (b) The SWP3 must include a description of construction and waste materials expected to be stored on-site and a description of controls to reduce pollutants from these materials.
- (c) The SWP3 must include a description of pollutant sources from areas other than construction (including stormwater discharges from dedicated asphalt plants and dedicated concrete plants), and a description of controls and measures that will be implemented at those sites to minimize pollutant discharges.

7. Effluent Limits

The federal Effluent Limitations Guidelines at 40 CFR Part 450.21(a) apply to all regulated construction activities under this 7th optional MCM, where the small MS4 is the operator.

8. Approved State and Local Plans

- (a) The permittee shall ensure the SWP3 is consistent with requirements specified in applicable sediment and erosion site plans or site permits, or stormwater management site plans or site permits approved by federal, state, or local officials.
- (b) SWP3s must be updated as necessary to remain consistent with any changes applicable to protecting surface water resources in sediment erosion site plans or site permits, or stormwater management site plans or site permits approved by state or local official for whom the permittee receives written notice.

9. Maintenance

All erosion and sediment control measures and other protective measures identified in the SWP3 must be maintained in effective operating condition. If through inspections the permittee determines that BMPs are not operating effectively, maintenance must be performed before the next anticipated storm event or as necessary to maintain the continued effectiveness of stormwater controls. If maintenance prior to the next anticipated

storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable.

10. Inspections of Controls

- (a) Personnel provided by the permittee must inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, discharge locations, and structural controls for evidence of, or the potential for, pollutants entering the drainage system. Personnel conducting these inspections must be knowledgeable of this general permit, familiar with the construction site, and knowledgeable of the SWP3 for the site. Sediment and erosion control measures identified in the SWP3 must be inspected to ensure that they are operating correctly. Locations where vehicles enter or exit the site must be inspected for evidence of off-site sediment tracking. Inspections must be conducted at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.

Where sites have been finally or temporarily stabilized or where runoff is unlikely due to winter conditions (e.g. site is covered with snow, ice, or frozen ground exists), inspections must be conducted at least once every month. In arid or semi-arid, or drought stricken areas, inspections must be conducted at least once every month and within 24 hours after the end of a storm event of 0.5 inches or greater

As an alternative to the above-described inspection schedule of once every 14 calendar days and within 24 hours of a storm event of 0.5 inches or greater, the SWP3 may be developed to require that these inspections will occur at least once every seven (7) calendar days. If this alternative schedule is developed, then the inspection must occur on a specifically defined day, regardless of whether or not there has been a rainfall event since the previous inspection. The inspections may occur on either schedule provided that the SWP3 reflects the current schedule and that any changes to the schedule are conducted in accordance with the following provisions: the schedule may be changed a maximum of one time each month, the schedule change must be implemented at the beginning of a calendar month, and the reason for the schedule change must be documented in the SWP3 (e.g., end of "dry" season and beginning of "wet" season).

- (b) Utility line installation, pipeline construction, and other examples of long, narrow, linear construction activities may provide inspection personnel with limited access to the areas described in Part VI.J.10(a) above. Inspection of these areas could require that vehicles compromise temporarily or even permanently stabilized areas, cause additional disturbance of soils, and increase the potential for erosion. In these circumstances, controls must be inspected at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches, but representative inspections may be performed. For representative inspections, personnel must inspect controls along the construction site for 0.25 mile above and below each access point where a roadway, undisturbed right-of-way, or other similar feature intersects the construction site and allows access to the areas described in Part VI.J.10.(a) above. The conditions of the controls along each inspected 0.25 mile portion may be considered as representative of the condition of controls along that reach extending from the end of the 0.25 mile portion to either the end of the next 0.25 mile inspected portion, or to the end of the project, whichever occurs first.

As an alternative to the above-described inspection schedule of once every 14 calendar days and within 24 hours of a storm event of 0.5 inches or greater, the SWP3 may be

developed to require that these inspections will occur at least once every seven (7) calendar days. If this alternative schedule is developed, the inspection must occur on a specifically defined day, regardless of whether or not there has been a rainfall event since the previous inspection. The inspections may occur on either schedule provided that the SWP3 reflects the current schedule and that any changes to the schedule are conducted in accordance with the following provisions: the schedule may be changed a maximum of one time each month, the schedule change must be implemented at the beginning of a calendar month, and the reason for the schedule change must be documented in the SWP3 (e.g., end of "dry" season and beginning of "wet" season).

- (c) In the event of flooding or other uncontrollable situations which prohibit access to the inspection sites, inspections must be conducted as soon as access is practicable.
- (d) The SWP3 must be modified based on the results of inspections, as necessary, to better control pollutants in runoff. Revisions to the SWP3 must be completed within seven (7) calendar days following the inspection. If existing BMPs are modified or if additional BMPs are necessary, an implementation schedule must be described in the SWP3 and wherever possible those changes implemented before the next storm event. If implementation before the next anticipated storm event is impracticable, these changes must be implemented as soon as practicable.
- (e) A report summarizing the scope of the inspection, the date(s) of the inspection, and major observations relating to the implementation of the SWP3 must be made and retained as part of the SWP3. Major observations should include: The locations of discharges of sediment or other pollutants from the site; locations of BMPs that need to be maintained; locations of BMPs that failed to operate as designed or proved inadequate for a particular location; and locations where additional BMPs are needed.

Actions taken as a result of inspections must be described within, and retained as a part of, the SWP3. Reports must identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report must contain a certification that the facility or site is in compliance with the SWP3 and this permit. The report must be signed by the person and in the manner required by 30 TAC §305.128 (relating to Signatories to Reports).
- (f) The names and qualifications of personnel making the inspections for the permittee may be documented once in the SWP3 rather than being included in each report.

11. Pollution Prevention Measures

The SWP3 must identify and ensure the implementation of appropriate pollution prevention measures for all eligible non-stormwater components of the discharge.

Section K. Additional Retention of Records

The permittee shall retain the following records for a minimum period of three (3) years from the date that final stabilization has been achieved on all portions of the site. Records include:

1. A copy of the SWP3; and
2. All reports and actions required by this section, including copies of the construction site notices.

Appendix B

City of Tomball Ordinances

Tomball, Texas, Code of Ordinances >> **PART II - CODE OF ORDINANCES** >> **Chapter 82 - UTILITIES**
>> **ARTICLE VI. - WATER AND SEWER LINES** >>

**Cross reference—Health and sanitation, ch. 42.*

**ARTICLE VI. - WATER AND SEWER
LINES***

[Sec. 82-231. - When construction permitted.](#)

[Sec. 82-232. - When payback is applicable; basis.](#)

[Sec. 82-233. - Approval by the city.](#)

[Sec. 82-234. - Preparation of map.](#)

[Sec. 82-235. - Conformity to city standards.](#)

[Sec. 82-236. - Violations.](#)

[Sec. 82-237. - Extension of city-owned utilities; requiring connections to city water, sewer and gas lines for service of new construction.](#)

[Secs. 82-238—82-250. - Reserved.](#)

Sec. 82-231.- When construction permitted.

All persons, including subdividers, property owners and developers, hereinafter referred to as "subdividers", who own or control property which is so situated with reference to any sewer or water line in the city as, in the opinion of the city council or such officer as may be designated for the purpose, to make it practical to connect with any sewer or water line, may, at their cost and expense, lay and construct water and sewer lines in and along the streets and ways of the city to connect with such water and sewer lines in accordance with the master plan of the city and such conditions as may be prescribed by the ordinances or the city council.

(Code 1978, § 5-61)

Sec. 82-232.- When payback is applicable; basis.

The payback provisions of this article shall only apply to extensions of main trunk lines to the property line of the subdivider. Any lines constructed within the subdivision or property of the subdivider, or those which are feeder lines, shall not be taken into consideration when determining the amount of payback under this article. It is hereby declared that all sewers and water lines laid under the provisions of this article shall be in all respects owned, managed, controlled and regulated by the city, and connections made therewith shall be governed and regulated in the same manner as connections with any sewers and water lines, except that the right is hereby reserved to subdividers constructing same, to receive, for private service connections, a payback for the subdividers cost of constructing the water and/or sewer line. Such payback amount is to be based upon a pro rata share of the initial cost of the construction as it relates to the number of square feet in the tract being serviced by the private service connection. The amount of reimbursement to the subdividers constructing the water and/or sewer lines shall be established by the city council after a hearing, establishing the cost of the construction and the area to be serviced.

(Code 1978, § 5-62)

Sec. 82-233.- Approval by the city.

(a)

Before beginning any construction of the improvements authorized in this article, complete plans and specifications for such improvements shall have first been completely approved by the director of public works and the city engineer as meeting the city's standards.

(b)

The director of public works, or his duly authorized representative, shall from time to time inspect the construction of all utility facilities during the course of construction to see that the same shall comply with the city's standards governing the same. In this regard, free access shall be accorded the director of public works and his duly authorized representative by the subdivider, his agents and employees. Inspection by the director of public works or a failure of the director of public works to inspect construction shall not in any way impair or diminish the obligation of the subdivider to install improvements in accordance with the plans and specifications therefor as approved by the city engineer and director of public works in accordance with the city's standards.

(Code 1978, § 5-63)

Sec. 82-234.- Preparation of map.

Upon the construction of the water or sewer line by the subdivider, who has a right of payback for the construction of such water or sewer line, the city shall prepare a map indicating the area within which any use of the water or sewer lines would require a payback to the subdivider who constructed the water or sewer line. This map designating the area in which a payback would result shall be placed on public record at the city hall and all developers applying for permits shall be made aware of the existence of the map and the cost of developing and using the water and sewer lines.

(Code 1978, § 5-64)

Sec. 82-235.- Conformity to city standards.

The water and/or sewer lines constructed under this article shall conform to the recommendations of the city engineer and director of public works, in the design, size and layout of the water distribution system. The water design shall be acceptable, without penalty, to the Texas Fire Insurance Commission and shall be approved by the city engineer and the director of public works. All materials and installations for water and sewer lines shall be in accordance with the Texas Department of Health Standards and the American Water Works Association standards and with the city's standards for same and shall be approved by the city engineer and the director of public works.

(Code 1978, § 5-65)

Sec. 82-236.- Violations.

Any subdivider who lays or constructs any sewer and/or water line or makes any connection with any sewer and/or water line for which a payback would be due under this article without having first complied with the provisions of this article or who shall refuse to permit the city to make connection with any of the proposed sewer and/or water lines, or interfere therewith, or who shall violate any of the provisions of this article shall be guilty of an offense. Cumulative of any other remedy available to it, the city may proceed by injunction or other appropriate remedy to correct any violation of this article.

(Code 1978, § 5-66)

Sec. 82-237.

- Extension of city-owned utilities; requiring connections to city water, sewer and gas lines for service of new construction.

(a)

Utility extensions by the city. It is the policy of the city to extend any or all municipally-owned utilities to unserved residences or businesses when budgeted and appropriated city funds for such extension are available, in accordance with the criteria below:

(1)

Requests for extensions will be addressed in the order in which they are received. The availability of funds for that specific program will be the first requirement considered.

(2)

Annual estimated revenue to the city over five years must equal or exceed the estimated cost of installation to be paid by the city, less applicable capital recovery fees. Revenue is estimated by the finance director, based on current average annual billings for the category of use. Construction cost is estimated by the public works director using current unit pricing for materials, equipment use and labor.

(3)

Full payments of the required contribution to the city have all been received for the specific program.

(4)

The city will extend water utility service if adequate service can be provided (i) in compliance with Texas Water Commission regulations and guidelines, and (ii) as necessary to supply fire protection services, including the sizing of lines as determined appropriate by the city to meet anticipated future service needs. Sewer service will be extended consistent with available capacity, including the sizing of lines as determined appropriate by the city to meet anticipated future service needs. Gas service will be extended in a similar manner.

(5)

This policy does not impose any obligation on the city to extend city utilities when such extensions are the responsibility of the owner, builder or developer.

(b)

Nondiscriminatory administration of policy. It is the policy and goal of the city to provide utilities, in accordance with the guidelines of this article, to all citizens on an equal, nondiscriminatory basis. The city is committed to the furtherance of this policy and goal.

(c)

Water, sewer and gas connections required for new construction. All new construction, residential or commercial, shall be connected to and use the city owned water, sewer and gas utilities if such utility service lines are located within 100 feet of any property lines of the subject lot, tract or parcel of land at the time of construction. New construction does not include remodeling or add-ons to existing residential or commercial improvements.

(d)

Penalties. Any person, corporation or entity who or which violates the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000.00 per offense. Each day in which any violation shall occur, or each occurrence of any violation, shall constitute a separate offense.

(Ord. No. 93-08, §§ 3—6, 7-12-93)

Secs. 82-238—82-250.- Reserved.

Tomball, Texas, Code of Ordinances >> **PART II - CODE OF ORDINANCES** >> **Chapter 70 - PLATS AND THE SUBDIVISION OF LAND** >> **ARTICLE III. - DESIGN STANDARDS** >>

ARTICLE III. - DESIGN STANDARDS

- [Sec. 70-31. - \[Standards and specifications.\]](#)
- [Sec. 70-32. - Comprehensive plan.](#)
- [Sec. 70-33. - General requirements.](#)
- [Sec. 70-34. - Public streets: general arrangement and layout.](#)
- [Sec. 70-35. - Streets: specific standards.](#)
- [Sec. 70-36. - Street paving.](#)
- [Sec. 70-37. - Street names.](#)
- [Sec. 70-38. - One-foot reserves.](#)
- [Sec. 70-39. - Partial or half streets.](#)
- [Sec. 70-40. - Easements.](#)
- [Sec. 70-41. - Federal flood insurance program.](#)
- [Sec. 70-42. - Building setback requirements.](#)
- [Sec. 70-43. - Reserve tracts.](#)
- [Sec. 70-44. - Lots, general provisions.](#)
- [Sec. 70-45. - Minimum lot sizes.](#)
- [Sec. 70-46. - Utilities.](#)
- [Sec. 70-47. - Drainage.](#)
- [Sec. 70-48. - Sanitary sewer.](#)
- [Sec. 70-49. - Water.](#)
- [Sec. 70-50. - Monuments and markers.](#)
- [Secs. 70-51—70-60. - Reserved.](#)

Sec. 70-31.- [Standards and specifications.]

No preliminary or final plat shall be approved by the commission, and no permit shall be issued for the construction of any improvement intended for public use or for the use of purchasers or owners of lots fronting or adjacent to such improvement, and no improvement intended for public use shall be accepted by the city, unless any such improvements shall comply with the following standards and specifications.

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-32.- Comprehensive plan.

All improvements required by this chapter shall conform to the city's comprehensive plan, this chapter, or any other federal, state, or local law or regulation applicable thereto, and all construction shall be in accordance with the "City of Tomball Minimum Construction Standards for Community Improvements."

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-33.- General requirements.

(a)

Approval of plans required. Before beginning any construction of the improvements required by this chapter on proposed roadways, public utilities or drainage facilities, or structures pertaining to any subdivision coming under the provisions of this chapter and either within the city limits or its ETJ, complete plans and specifications for such improvements shall have first been approved, in their entirety, by the director of public works as meeting the appropriate standards as delineated in section 70-32 above. In addition, within 30 days following completion of all improvements as required by the city of the owner or subdivider of the subdivision, the owner or subdivider shall provide to the director of public works, one set of as-built drawings of all underground utilities and street improvements that have been constructed.

(b)

Changes to construction plans. No change in the plans and specifications for a public improvement required hereunder shall be made without the prior written approval of the director of public works.

(c)

Inspection. The director of public works shall from time to time inspect the construction of all required improvements in the subdivision during the course of construction to see that the same comply with the city's standards governing same. In this regard, free access to the subdivision shall be accorded the director of public works by the subdivider, his agents and employees. Inspection by the director of public works, or a failure of the director of public works to inspect construction as required herein, shall not in any way impair or diminish the obligation of the subdivider to install improvements in the subdivision in accordance with plans and specifications therefore as approved by the director of public works, in accordance with the city's standards.

(d)

City standards. The construction standards referred to in this chapter may be revised from time to time by the city council without requiring an amendment to this chapter, such standards being subject to change by motion duly adopted by the city council. Any such changes or revisions shall be immediately noted upon such standards.

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-34.- Public streets; general arrangement and layout.

The public street system pattern proposed within any subdivision shall comply with design standards of this section and shall:

(1)

Provide for adequate vehicular access to all properties within the subdivision plat boundaries;

(2)

Provide adequate street connections to adjacent properties to ensure adequate traffic circulation within the general area;

(3)

Provide a local street system serving properties to be developed for residential purposes which discourages through traffic while maintaining sufficient access and traffic movement for convenient circulation within the subdivision and access by fire, police and other emergency services personnel; and

(4)

Provide for a sufficient number of continuous streets to accommodate the traffic demands generated by new development.

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-35.- Streets; specific standards.

(a)

Location and alignment. The location and alignment of public streets proposed to be dedicated and established within a subdivision plat shall be designed in conformance with the standards listed in section 70-33 herein.

(b)

Right-of-way width, widening. The width of the right-of-way to be dedicated for any street shall be as set forth below.

(1)

Local streets. The width of the right-of-way for local streets shall be not less than 80 feet. Provided however, a right-of-way width of not less than 60 feet may be approved if there is also dedicated a ten-foot-wide drainage and utility easement immediately adjacent to each side of such local street, which in combination would total 80 feet in width, and an open ditch drainage system is provided for such street. In those instances where a proposed subdivision is located adjacent to an existing public street with a right-of-way width less than 60 feet, sufficient additional right-of-way shall be dedicated within the subdivision to accommodate the development of the street to a total right-of-way width of not less than 60 feet.

Notwithstanding the foregoing, the commission may, on written application, in its discretion authorize a street right-of-way width of not less than 50 feet for a local street where such street cannot reasonably be made to continue or extend onto an existing, approved, proposed, or possible future street, is so located that logically it could not be extended to connect with an existing, approved, or proposed street, there is not a likelihood that it would inhibit the ability of the city to provide emergency

services from fire, police, medical, or other rescue personnel, the street provides access to single family residential properties only, and the total length of such street does not exceed 700 feet.

(2)

Collector streets. The width of the right-of-way for collector streets shall be not less than 80 feet.

(3)

Arterial streets. The width of the right-of-way for arterial streets shall be not less than 100 feet.

(c)

[Abutments.] All lots shown on the plat shall abut a public street, or abut a private street that shall meet all requirements herein for public streets. All lots shown on the plat shall have indicated thereon the front of the lot for subsequent construction of a building.

(d)

Curves and intersections.

(1)

Local, collector, and arterial streets. The design and construction of all local, collector, and arterial streets shall meet the guidelines set forth in the "Policy on Geometric Design of Highways and Streets," Fourth Edition, 2001, as published by the American Association of State Highway and Transportation Officials ("AASHTO"), the city's current comprehensive plan, and any other applicable design and construction standards adopted by the city. Such considerations as adopted by the city shall include, but not be limited to street function, street capacity, service levels, traffic safety, pedestrian safety, and utility facilities and their location, which may effect the minimum requirements. Proposed streets shall meet this criteria and be approved by the director of public works prior to final design.

(2)

Right angle. The angle of street intersections shall not vary more than ten degrees from the perpendicular. Where acute angle intersections are approved a radius of at least 25 feet in the right-of-way line at the acute corner shall be provided.

(e)

Cul-de-sac right-of-way radii. The radii of the right-of-way at the end of local streets terminated with a circular cul-de-sac turnaround shall be not less than 50 feet. The city shall cause to be erected at the entrance of any such street a sign reading "dead-end street," but such sign shall be at the expense of the developer.

(f)

Dead-end streets. Dead-end streets shall not be approved except in those instances where the street is terminated by a temporary circular cul-de-sac turnaround or where the street is designated to be extended into adjacent property. Such dead-end streets must also comply with section 70-38, which contains the requirements for the dedication of a one-foot reserve.

(g)

Signs and traffic control devices. The developer shall be responsible for the installation of all required street signs and traffic control devices, as determined by the director of public works or designee. All such signs and traffic control devices shall be in accordance with the Texas Manual on Uniform Traffic Control Devices, 1980 Edition, as published by the Texas Department of Transportation.

(h)

Street lighting. The developer shall be responsible for the installation of street lighting in accordance with the "City of Tomball Minimum Construction Standards for Community Improvements."

(i)

Sidewalks. The developer shall be responsible for the installation of sidewalks in all residential and commercial subdivisions, except in residential subdivisions along streets with open ditch drainage. Sidewalks shall be constructed in accordance with 'City of Tomball Minimum Construction Standards for Community Improvements.' Sidewalks, when applicable, shall be considered as part of the required street system, whether public or private.

(Ord. No. 2001-19, § 2, 1-7-02; Ord. No. 2006-14, § 1, 10-23-06)

Sec. 70-36.- Street paving.

All public or private streets as provided herein shall be constructed in accordance with the "City of Tomball Minimum Standards for Community Improvements." Provided however, no public or private street shall be constructed having a pavement width of less than 28 feet.

(Ord. No. 2001-19, § 2, 1-7-02; Ord. No. 2005-05, § 1, 7-18-05)

Sec. 70-37.- Street names.

All streets dedicated by plat shall be named, and so identified on such plat, in conformance with the following:

(1)

New streets. New street names shall not duplicate existing street names located within the city, other than extensions of existing streets;

(2)

Extensions of existing streets. Existing street names shall be used in those instances where a new street is a direct extension of an existing street or a logical extension (when the streets in question are not and cannot be physically continuous) thereof except in those instances where the existing street name is a duplicate street name;

(3)

Suffixes. Street name suffixes such as court, circle and loop should be designated on streets that are cul-de-sacs or in a configuration of a loop street;

(4)

Prefixes. Street name prefixes such as north, south, east and west may be used to clarify the general location of the street; however, such prefixes shall be consistent with the existing and established street naming and address numbering system of the general area in which the street is located; and

(5)

Alphabetical and numerical streets prohibited. Alphabetical and numerical street names shall not be designated, except in those instances where such street is a direct extension of an existing street with such a name and is not a duplicate street name.

(6)

Street name change. No street name once designated may be changed except by city ordinance.

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-38.- One-foot reserves.

In those instances where a street is established by a plat submitted to the commission and such street forms a stub street onto adjacent unplatted acreage, or where such street lies along and parallel with the subdivision boundary and is adjacent to unplatted acreage, a one-foot wide reserve shall be established within the street right-of-way at its "dead-end" terminus, or along the right-of-way adjacent to such unplatted acreage, to form a buffer strip, dedicated to the public, between the street right-of-way and the adjacent unplatted acreage, to prevent access to such street from the adjacent unsubdivided acreage, unless and until the commission has reviewed the development proposals for such adjacent acreage, and a plat of the adjacent property is duly recorded. The conditions associated with the establishment of a one-foot reserve on a plat are contained in the following notation that shall be placed upon the face of any plat where a one-foot reserve is to be established:

"One-foot reserve dedicated to the City in fee as a buffer separation between the side or end of streets where such streets abut adjacent acreage tracts, the condition of such dedication being that when the adjacent property is subdivided pursuant to a recorded plat, the one-foot reserve shall thereupon become vested in the public for street right-of-way purposes."

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-39.- Partial or half streets.

Partial or half streets may be dedicated in those instances where the commission determines that it is necessary for the proper development of the land and in the public interest to locate a public street right-of-way centered on a property line. The commission shall not approve a partial or half street dedication within a subdivision dedicating less than a 50-foot right-of-way width for a designated arterial street, or less than a 40-foot right-of-way width for a designated collector street, or less than a 30-foot right-of-way width for any other type public street. Appropriate notations and the one foot reserve dedication in fee as provided in section 70-38 shall be placed upon the plat restricting access from any partial or half streets so dedicated to adjacent acreage tracts until the adjacent property is subdivided pursuant to a recorded plat and the additional adjacent right-of-way is acquired providing the full right-of-way as specified in this chapter.

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-40.- Easements.

(a)

Utility easements. Utility easements, both above and below grade, are those easements established by plat or separate instrument which are dedicated to the city for public use and designed to accommodate facilities necessary to provide various types of utility services to the individual properties within the plat boundaries. Utility easements may be used for, but not be limited to, facilities necessary to provide water, electrical power, natural gas, telephone, telegraph, cable television, and sanitary sewer services.

(1)

Location. Utility easements shall be provided along the front of all lots except when the commission determines that such location is not feasible for the orderly development of the subdivision, or where the right-of-way is not wide enough to allow for the proper placement and maintenance of all utilities. Utility easements located along the outer boundaries of a subdivision shall contain the full width required for such easement except in those instances where the adjacent property is within a portion of a previously approved and platted subdivision and under the same ownership as the property being platted or where additional easement width is dedicated by separate instrument by the owner of said adjacent tract. In such cases, one-half of the required easement width shall be dedicated within the platted boundary with the other one-half provided outside the platted boundary by separate instrument or through notation on the plat certifying the ownership and dedication of said easement.

(2)

Widths. All utility easements established within any subdivision plat shall not be less than ten feet in width, but may be required to be greater where determined by the director of public works.

(3)

Limitations. All utility easements shall be limited to surface and below grade easements. Aerial easements over utility easements shall be limited to that necessary for transformers, amplifiers, and other similar devices that cannot be placed below grade, it being the express purpose and intent hereof to require all utilities, to the extent reasonably possible, to be placed below ground level.

(b)

Drainage easements. All drainage easements shall be located and properly dedicated to the city to accommodate the drainage requirements necessary for the proper development of the property within the subdivision boundaries and within its natural watershed and in conformance with the city's comprehensive plan, its regulations governing storm drainage and/or flood control, and the requirements of other governmental agencies having jurisdiction over storm drainage or flood control within the area in which the subdivision is located. A suitable note on the plat shall restrict all properties within the subdivision to ensure that drainage easements within the plat boundaries shall be kept clear of fences, buildings, obstructive vegetation, and other obstructions to the operation and maintenance of the drainage facilities therein.

Storm water detention easements. Each storm water detention easement shall be located and designed in accordance with applicable standards of governmental agencies having jurisdiction over surface water drainage or flood control within the area in which the proposed subdivision or development is located. Each subdivision plat that dedicates a storm water detention easement shall contain a restriction on the plat that (1) prohibits the construction of fences or buildings, whether temporary or permanent, or installation or maintenance of plantings or other obstructions to the operation and maintenance of the facility, within the storm water detention easement or upon properties adjacent thereto, and (2) prohibits drainage from abutting properties directly into the storm water detention easement except by means of a drainage structure approved by the director of public works or the authorized public drainage or flood control official.

(c)

Private easements, fee strips.

(1)

Existing easements, fee strips. All easements or fee strips created prior to the subdivision of any tract of land shall be shown on the subdivision plat of said land with appropriate notations indicating the name of the holder of such easement or fee strip, the purpose of the easement and generally the facilities contained therein, the dimensions of the easement or fee strip tied to all adjacent lot lines, street rights-of-way and plat boundary lines, and the recording reference of the instruments creating and establishing said easement or fee strip. In those instances where easements have not been defined by accurate survey dimensions such as "over and across" type easements, the subdivider shall request the holder of such easement to accurately define the limits and location of such easement through the property within the plat boundaries. If the holder of such undefined easement does not define the easement involved and will not certify his refusal to define such easement to the commission, the subdivision plat shall provide accurate information as to the center line location of all existing pipelines or other utility facilities placed in conformance with the easement holder's rights, and building setback lines shall be established not less than 15 feet from and parallel to both sides of the centerline of all underground pipelines or pole lines involved.

(2)

Establishment of special use utility or drainage easements. A special use utility or drainage easement may be established by subdivision plat when such easement is for the purpose of accommodating a utility or drainage facility owned, operated, and maintained by a unit of government and is restricted to either water mains, sanitary sewers, storm sewers, or other drainage

purposes and where it has been determined by the commission that these facilities cannot or should not be accommodated within a general purpose public utility or drainage easement or public street right-of-way. Easements proposed to be established for any privately-owned utility company or private organization providing utility services and restricted for their exclusive use shall not be created by a subdivision plat; however, such private utility facilities may be accommodated and placed within the general purpose utility easements and public streets established within the plat boundary. Nothing herein, however, may prevent such private companies or the subdivider from granting and establishing special or exclusive use easements by separate instrument if such arrangements are deemed necessary to properly serve the properties within the plat boundaries.

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-41.- Federal flood insurance program.

No subdivision of land shall be approved unless same complies in all respects with the city's flood damage prevention regulations, as found in chapter 38 of this Code. Each final plat shall have depicted thereon applicable boundaries of all flood zones as provided in the latest edition of the Federal Insurance Rate Maps.

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-42.- Building setback requirements.

No plat of any subdivision shall be approved unless building setback lines are established therein in accordance with the city's applicable regulations, as found in chapter 14 of this Code.

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-43.- Reserve tracts.

Reserve tracts are those individual parcels of land created within a platted subdivision which are not divided into residential or commercial lots, but are established to accommodate some specific purpose such as a private recreational facility, school or church site, or site for utility facilities or other activities or land uses for which division into lots is not appropriate. Since the use of reserve tracts may not be completely determined by the subdivider or developer at the time plats are prepared and submitted to the city, these reserve tracts are often established as "unrestricted reserves" that allows maximum flexibility in the determination of the ultimate use planned for such properties.

(1)

Street access. Reserves established on any subdivision plat shall have frontage on and be immediately adjacent to at least one street, with such frontage being not less than 60 feet in width.

(2)

Identification and designation. All reserves shall be labeled and identified on the plat, and a description of the use intended for such reserve, if known, shall be noted. If the use of the reserve is not restricted for any specific use, the reserve shall be identified and noted as being "unrestricted." All reserves are to be identified and designated by alphabetical letters, not numbers, along with an indication as to the total acreage of such reserves that shall be shown within each reserve boundary.

(3)

Special purpose reserves. Notwithstanding any other provision contained herein or in chapter 14 of this Code, special purpose reserves may be created which do not otherwise comply with minimum lot size requirements. "Special purpose reserves" shall mean tracts restricted to a use beneficial to the public or to the owners of lots within a subdivision, including but not limited to, tracts housing facilities for utilities, common area amenities such as parks, playgrounds and greenbelts, pipeline regulator stations, and community signs. The commission shall be authorized to waive requirements contained in this chapter which are, because of the nature of the restricted reserve's use, deemed by the commission as inapplicable or inappropriate. For example, the commission would be authorized to waive the requirement that sanitary sewer service be available to a special purpose reserve that is restricted to the housing of a subdivision identification sign. Any special purpose reserve shall be identified on the plat as such, and shall contain an appropriate notation of the restrictions applicable thereto.

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-44.- Lots, general provisions.

The purpose of this section is to provide general overall guidelines for the establishment of individual lots within a subdivision.

(1)

General lot design, arrangement, layout. The general lot design within any subdivision shall be based upon the concept that such lots are created and established as undivided tracts of land and that purchasers of such lots can be assured that these tracts of land meet the applicable regulations, including those found in chapter 14 of this Code, which are based upon the following basic criteria:

a.

That the lot is of sufficient size and shape to accommodate easements for all public and private utility services and facilities to adequately serve any residential dwelling unit constructed thereon.

b.

That the lot is of sufficient size and shape and is so located that direct vehicular access is provided from a public street or through an approved private street and that the required number of off-street parking spaces can be provided on the lot without encroachment within any adjacent public or private street right-of-way.

(2)

Lot shapes. Lots shall be designed, so far as possible, with side lot lines being at right angles or radial to any adjacent street right-of-way line. Where all lots are either perpendicular and at right angles or radial to adjacent street rights-of-way, a suitable notation shall be placed upon the plat in lieu of lot line bearings.

(3)

Key or flag shaped lots. For the purposes hereof, a key or flag shaped lot shall mean a lot having gross disparities in width between side lot lines, sometimes resembling a flag on a flag pole, a key, or some other lot shape of comparable irregularity. Key or flag shaped lots shall not be prohibited if otherwise in compliance with the minimum lot size requirements of this and other applicable regulations of the city and, provided that no portion of any such lot is less than 50 feet in width.

(4)

Street access limitations. Rear and side vehicular driveway access from lots to adjacent streets designated as major thoroughfares or any other public street which carries a traffic volume where additional vehicular driveways would create a traffic hazard or impede the flow of traffic, shall not be approved and such access restriction shall be noted directly upon the plat and adjacent to the lots in question.

(5)

Lot and block identification. All blocks established in a subdivision shall be designated on the plat, and shall be numbered consecutively throughout the entire subdivision. Lots established within blocks shall also be numbered consecutively within the block. Lot numbering shall be cumulative throughout the subdivision if the numbering system continues from block to block in a uniform manner.

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-45.- Minimum lot sizes.

General provisions. Lot sizes shall comply with minimum requirements set forth in the applicable ordinances of the city, including chapter 14 of this Code.

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-46.- Utilities.

Adequate provision for all utilities shall be provided to the entire subdivision. All distribution and service lines of electrical, telephone, television, and other wire-carrier type utilities shall be underground. Transformers, amplifiers, or similar devices associated with the underground lines shall be located upon the ground or below ground level. Where the underground placement of such facilities is not a standard practice of the utility involved, the subdivider or developer shall make arrangements with the applicable utility for payment of all costs associated with the non-standard installation. All utility installations shall comply with the "City of Tomball Minimum Construction Standards for Community Improvements."

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-47.- Drainage.

Drainage facilities shall be designed and constructed in accordance with all federal, state, and local rules and regulations, including the "City of Tomball Minimum Construction Standards for Community Improvements."

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-48.- Sanitary sewer.

Sanitary sewer facilities shall be designed and constructed in accordance with all federal, state, and local rules and regulations, including the "City of Tomball Minimum Construction Standards for Community Improvements." Each lot within a proposed subdivision shall be connected to the sanitary sewer system of the city if any point within such subdivision is located within 1,000 feet of the city's collection system therefor. No septic tank system shall be permitted within any newly platted subdivision when connection to the city's sanitary sewer system is required hereunder.

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-49.- Water.

Facilities for the provision of potable water to all areas of the proposed subdivision shall be designed and constructed in accordance with the "City of Tomball Minimum Construction Standards for Community Improvements." Each lot within a proposed subdivision shall be connected to the potable water distribution system of the city if any point within such subdivision is located within 1,000 feet of the city's distribution system therefor. No water well shall be permitted within any newly platted subdivision if potable water is available from the city's system as provided herein.

(Ord. No. 2001-19, § 2, 1-7-02)

Sec. 70-50.- Monuments and markers.

(a)

Concrete monuments, six inches in diameter and 24 inches long, shall be placed on all boundary corners, block corners, curve points, and angle points. A copper pin one-quarter inch in diameter embedded three inches in the monument shall be placed at the exact intersection point on the monument. The monuments shall be set at such an elevation that they will not be disturbed during construction, and the top of the monument shall not be less than 12 inches below the finish ground level.

(b)

Lot markers shall be five-eighths inch or greater reinforcing bar, 24 inches long, or approved equal, and shall be placed at all lot corners flush with the ground, or below ground if necessary in order to avoid being disturbed.

(c)

Where no benchmark is established or can be found within 300 feet of the boundary of the subdivision, such benchmark shall be established to the latest edition of the U.S. Coast and Geodetic Survey datum. The benchmark shall be established upon a permanent structure, or may be set as a monument and shall be readily accessible and identifiable on the ground.

(Ord. No. 2001-19, § 2, 1-7-02)

Secs. 70-51—70-60.- Reserved.

Tomball, Texas, Code of Ordinances >> **PART II - CODE OF ORDINANCES >> Chapter 44 - LANDSCAPING, PARK AND OPEN SPACE STANDARDS >>**

Chapter 44 - LANDSCAPING, PARK AND OPEN SPACE STANDARDS

[ARTICLE I. - LANDSCAPING STANDARDS](#)

[ARTICLE II. - BUFFERING AND SCREENING](#)

Tomball, Texas, Code of Ordinances >> **PART II - CODE OF ORDINANCES >> Chapter 44 - LANDSCAPING, PARK AND OPEN SPACE STANDARDS >> ARTICLE I. - LANDSCAPING STANDARDS >>**

ARTICLE I. - LANDSCAPING STANDARDS

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Sec. 44-1.- New development.

A developer shall provide and maintain landscaped areas within all new developments according to the standards contained in this article. The standards contained herein are minimum standards.

(Ord. No. 2003-01, § 2, 3-17-03)

Sec. 44-2.- Definitions.

Buffer shall mean a specified land area, together with the planting and landscaping required on any building site, which may also contain a barrier, such as a berm or a fence, where such additional screening is necessary to achieve the desired level of buffering between various activities, and shall meet the minimum requirements to provide a year-round visual obstruction.

Building site shall mean the tract, parcel or lot of land area which is being developed and which is designated on the building permit application, together with all contiguous tracts or parcels of land held under common ownership and any existing buildings and appurtenant parking.

Diameter shall mean the minimum diameter of a tree as measured six inches about the root collar for trees up to and including four inches in diameter and 12 inches above the root collar for trees having a larger diameter.

Drip line shall mean the periphery of an area underneath a tree, which would be encompassed by the perpendicular line dropped from the outermost edges of the crown of the tree.

Groundcover plants. No minimum size is required but the planting is to be done so as to develop full coverage within 18 months.

Landscape development shall mean trees, shrubs, groundcover plants, vines, or grass installed in planting areas, having a minimum of ten square feet of actual plantable area and a minimum inside dimension on any side of 18 inches.

Private property shall mean any industrial, commercial, business, multi-family, or townhouse site development.

Public property shall mean any land owned by the city, including street rights-of-way and yards around public buildings.

Root collar shall mean an encircling structure of band-like markings or a marked color change (from the tree bark) located at the highest part of the root system joining into the trunk of the tree at or slightly below the surrounding soil line.

Screening shall mean any method of visually shielding or obscuring one land use from another by the planting of evergreen trees or shrubs, or both, or the erection of a screening fence designed to minimize the transmission or propagation of noise, light, vibration, or dust from traffic or other activity on one property to adjoining public or private properties. Screening shall meet minimum requirements to provide a year-round visual obstruction.

Shrub shall mean any self-supporting, woody, deciduous or evergreen species, which is generally multi-stemmed and sold by height or spread and measured in inches or feet, as normally will grow in the county.

Tree shall mean any self-supporting wood plant, evergreen or deciduous, which at the time of planting has a caliper equal to or greater than two inches as measured six inches about the root collar, which is not less than six feet in height as measured from the root collar, and shall be of a species that normally grows to an overall height of a minimum of 15 feet in the county.

(Ord. No. 2003-01, § 2, 3-17-03)

Sec. 44-3.- Landscaping required.

(a)

This section shall set forth the minimum standards and shall apply to all property developed, except single- or two-family residential buildings. No building permit shall be issued unless the minimum area, prescribed in table A below, of the building site not covered by a building or structure is devoted to landscape development.

<u>Table A</u>	
<u>Total Area of Site</u>	<u>Required Landscape Development</u>
Up to 20,000 sq. ft.	5% of area not covered by building or structure
20,000 to 200,000 sq. ft.	7-1/2% of area not covered by building or structure
Above 200,000 sq. ft.	10% of area not covered by building or structure
The required number of trees on a building site not covered by a building or structure shall be:	
<u>Area Not Covered By Building or Structure</u>	<u>No. of Trees Required</u>
Less than 3,000 sq. ft.	0
3,000–7,000 sq. ft.	1
7,001–10,000 sq. ft.	2
10,001–20,000 sq. ft.	3
20,001–30,000 sq. ft.	4
30,001–40,000 sq. ft.	6

40,001 sq. ft. or greater

3 per 20,000 sq. ft.*

* Round to the next highest whole tree.

(b)

Landscape development located within the rear setback area of a building site and not adjacent to a public street shall not be considered when determining the minimum requirements of this section.

(c)

Trees planted to meet these requirements must have a minimum caliper of two inches at six inches above the root collar.

(d)

If a building or development, constructed or substantially constructed prior to the date of adoption of this chapter, is altered or enlarged, such building or development shall not be subject to the provisions.

(e)

Landscaping plan. A landscaping plan shall be submitted at the time of application for any preliminary plat or building permit application, and such landscaping plan required under this section shall contain the following information:

(1)

The location and type of all existing trees on the building site, which are six inches or more in diameter, and delineation of which trees or natural features are to be retained;

(2)

A description/plan of how existing healthy trees to be retained on the site will be protected from damage during construction;

(3)

The location, height, and material of all proposed screening and fencing on the site;

(4)

The location and dimension of proposed landscape development; and

(5)

A description of trees, shrubs, and groundcover plants shown on the plan, including names, location, quantities, size (diameter and/or container), height, spread, and spacing.

(f)

Alternate landscaping design. The planning commission may consider and approve an alternative plan, which is not in strict compliance with the requirements of this chapter. Such alternative plan must meet the objectives and purposes of this chapter, as determined by the planning commission, may not reduce the standards set forth herein, and clearly be superior to a plan that would otherwise be in strict compliance. In making this determination, the planning commission may consider the topography, shape, size, or other natural features of the building site; the suitability of any alternative screening or buffering proposal; and other similar factors.

(g)

Replacement of dead landscaping plants. If any required landscaping tree, shrub, or groundcover plant should die, the owner shall replace these plants by the end of the next planting season.

(h)

Replacement of existing landscape development. Any major or significant modification to a landscape development constructed or installed in association with this chapter must be in accordance with this chapter and must be approved by the city's building official.

(Ord. No. 2003-01, § 2, 3-17-03)

Sec. 44-4.- Credits; minimum requirements.

(a)

Tree preservation credit. Landscaping plans that preserve existing trees shall be given credit toward the total number of trees required as shown below:

Diameter of existing tree	Credit against tree requirement
1"—3"	1.0 tree
3½"—9"	2.0 trees
9½"—15"	3.0 trees
15½" or greater	6.0 trees

(b)

If a credited tree dies for any reason, it must be replaced with the credit number of trees within 120 days.

(Ord. No. 2003-01, § 2, 3-17-03)

Sec. 44-5.- Prohibited activities.

The following activities shall be prohibited within the limits of the drip line of any existing tree to be retained under the provisions of a landscape plan required by this chapter:

- (1) Material storage. No materials intended for use in construction or waste materials accumulated due to excavation or demolition;
- (2) Equipment cleaning/liquid disposal. No equipment shall be cleaned or other liquids deposited, including paint, oil, solvents, asphalt, concrete, mortar, or other materials;
- (3) Tree attachments. No signs, wires, or other attachments, other than those of a protective nature, which have been approved in the tree disposition plan; and
- (4) Vehicular traffic. No vehicle, construction equipment or parking is allowed.

(Ord. No. 2003-01, § 2, 3-17-03)

Editor's note—Ord. No. 2003-01, § 2, adopted March 17, 2003, enacted provisions intended for use as subsections (a)—(d). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections (1)—(4).

Sec. 44-6.- Trees within public rights-of-way.

A person commits an offense if he removes or destroys a tree within a street right-of-way, or upon any public property, without first obtaining written authorization therefor from the city manager.

(Ord. No. 2003-01, § 2, 3-17-03)

Secs. 44-7—44-9.- Reserved.

Tomball, Texas, Code of Ordinances >> **PART II - CODE OF ORDINANCES >> Chapter 44 - LANDSCAPING, PARK AND OPEN SPACE STANDARDS >> ARTICLE II. - BUFFERING AND SCREENING >>**

ARTICLE II. - BUFFERING AND SCREENING

[Sec. 44-10. - Purpose.](#)

[Sec. 44-11. - Buffering and screening.](#)

Sec. 44-10.- Purpose.

Requirements are set forth in this article for the provision of buffers between different types of land uses. The buffer is designed to eliminate or minimize potential nuisances and to reduce potentially adverse impacts of noise, odor, or incompatible uses. Such nuisances may include, but shall not be limited to, dirt, litter, noise, lights, signs, unsightly buildings or parking areas.

(Ord. No. 2003-01, § 2, 3-17-03)

Sec. 44-11.- Buffering and screening.

When a commercial or industrial use is established on a building site located adjacent to any residential area, a ten-foot side landscaped open-space buffer shall be installed and maintained by the owner, developer, or operator of the commercial or industrial property between it and the

adjacent residential area. In addition, a six-foot high opaque fence or wall shall be erected and maintained along the property line to provide visual screening. The fence or wall shall be of wood, masonry, wrought iron, or aluminum, and may be a diagonal, horizontal, or vertical stockade-type privacy fence, although the framing of such fence may be of metal. The provisions of this section shall not apply where the residential area is separated by a public street, drainage ditch, or canal with a minimum easement of 30 feet. Conversely, when a single-family use is established on a building site adjacent to any commercial, industrial, or multiple-family area, a six-foot high opaque fence or wall shall be erected and maintained along the property line.

With written approval of the planning commission, and otherwise full compliance with landscaping standards, a required buffer may include a stormwater detention area. In no event, however, shall the following uses be allowed in buffers: playfields, stables, swimming pools, tennis courts, or similar active recreation uses.

(Ord. No. 2003-01, § 2, 3-17-03)

ORDINANCE NO. 2009-30

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, BY ADDING A NEW ARTICLE IV TO CHAPTER 38; IMPLEMENTING AND ENFORCING EROSION AND SEDIMENT CONTROL MANAGEMENT GUIDELINES; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2000 FOR EACH DAY OF VIOLATION HEREOF; AND PROVIDING FOR SEVERABILITY; AND MAKING OTHER PROVISIONS AND FINDINGS RELATED THERETO.

* * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The Code of Ordinances of the City of Tomball, Texas, is hereby amended by adding a new Article, IV, Erosion and Sediment Control, to provide as follows:

“ARTICLE IV. EROSION AND SEDIMENT CONTROL

Sec. 38-50. Purpose.

The purpose of this Article is to reduce erosion during the construction process by implementing and enforcing erosion and sediment control management guidelines. The provisions of this Article are cumulative and in addition to other regulations or rules of the City that may be applicable to the development of property.

Sec. 38-51. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Clearing means any activity which removes the vegetative surface cover.

Drainage Way means any channel that conveys stormwater runoff throughout the site.

Erosion Control means measures that prevent erosion.

Erosion and Sediment Control Plan means a set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and

sequencing to be used controlling sediment and erosion on a development site including, before, during and after construction.

Grading means excavation or fill of material, including the resulting conditions thereof.

Perimeter means the area of a lot or tract of land that is 30 feet wide and parallel to and adjacent to the property lines of the lot or tract of land.

Perimeter Control means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

Phasing means clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

Sediment Control means measures that prevent eroded sediment from leaving the site.

Site means a parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

Site Development Permit means a permit issued by the municipality for which the construction or alteration of ground improvements and structures for the control of erosion, runoff and grading.

Stabilization means the use of practices that prevent exposed soil from eroding.

Start of Construction means the first land-disturbing activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Watercourse means any natural or artificial body of surface water, including, but not limited to bayous, channels, creeks, lakes, ponds, rivers, sloughs and streams defined by a bed and banks.

Waterway means a channel that directs stormwater runoff to a watercourse, or to the public storm drain.

Sec. 38-52. Permit Required.

(a) No person shall be granted a site development permit for land-disturbing activity that would require the uncovering of 5,000 or more square feet without the approval of an Erosion and Sediment Control Plan by the City Engineer.

(b) No site development permit is required however for the following activities:

- (1) Any emergency activity that is immediately necessary for the protection of life, property or natural resources.
- (2) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- (3) Any activities on a lot less than one acre in area and used for single family or two family residential purposes only.

(c) Each application shall bear the name(s), address(es) and contact number(s) of the owners and developers of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee.

(d) Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan.

(e) The applicant shall file with City a faithful performance bond or bonds, letter of credit, or other improvement security in an amount deemed sufficient by the City Engineer to cover all costs of improvements, landscaping, and maintenance of improvements for such period as specified by the City, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

Sec. 38-53. Review and Approval

(a) The City Engineer will review each application for a site development permit to determine its conformance with the provisions of this Article. Within 30 days after receiving an application, the City Engineer shall, in writing:

- (1) Approve the permit application;
- (2) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
- (3) Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.

(b) Failure of the City Engineer to act on original or revised applications within 30 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City Engineer. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the City Engineer.

(c) Any permit issued under this Article shall expire six months following its issuance; provided, however, that the City Engineer may extend a permit to complete work substantially completed under that permit.

Sec. 38-54. Erosion and Sediment Control Plan

(a) The Erosion and Sediment Control Plan shall include:

- (1) A natural resources map identifying soils, forest cover, and resources protected under other chapters of this code.
- (2) The map shall be at a scale no smaller than 1"=100'.
- (3) The map of the perimeter of the trees to remain, including a tree survey showing the location, diameter, and name of all trees with 8 inch caliper or more measured three feet from the ground.
- (4) A sequence of construction of the development site, including stripping and clearing, rough grading, construction of utilities, infrastructure, and buildings, and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, and the sequence of clearing, installation of temporary erosion and sediment measures, and establishment of permanent vegetation.
- (5) All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and permanently, after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
- (6) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
- (7) Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.
- (8) Identification of the representative for site activities.

(b) Modifications to the plan shall include

- (1) Major amendments of the Erosion and Sediment Control Plan shall be submitted to the City Engineer and shall be processed and approved, or disapproved, in the same manner as the original plans.
- (2) Field modifications of a minor nature may be authorized by the City Engineer by written authorization to the permittee.

Sec. 38-55. Design Requirements

(a) Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the Storm Water Management Handbook for Construction Activities, City of Houston, Harris County, and HCFCD, 2006 Edition and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the City Engineer.

(b) Clearing and Grading

- (1) Clearing and grading of natural resources, such as forests and wetlands, floodplain, shall not be permitted, except when in compliance all other chapters of this Code. These standards are cumulative of other Federal, State, and local jurisdictional requirements.
- (2) Clearing techniques that retain natural vegetation and retain natural drainage patterns, as described in the Storm Water Management Handbook for Construction Activities, City of Houston, Harris County, and HCFCD, 2006 Edition, shall be used to the satisfaction of City Engineer.
- (3) Phasing shall be required on all sites disturbing greater than *thirty* acres, with the size of each phase to be established at plan review and as approved by City Engineer.
- (4) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- (5) Cut and fill slopes shall be *no greater than 2:1*, except as approved by City Engineer to meet other community or environmental objectives.

(c) Erosion Control

- (1) Soil must be stabilized within *five days* of clearing or inactivity in construction.
- (2) If vegetative erosion control methods, such as seeding, have not become established within *two weeks*, the City Engineer may require that the site be reseeded, or that a non-vegetative option be employed.
- (3) On steep slopes or in drainage ways, special techniques that meet the design criteria outlined in the Storm Water Management Handbook for Construction Activities, City of Houston, Harris County, and HCFCD, 2006 Edition, shall be used to ensure stabilization.
- (4) Soil stockpiles must be stabilized or covered at the end of each work day.

- (5) At the close of the construction season, the entire site must be stabilized, using a heavy mulch layer, or another method that does not require germination to control erosion.
 - (6) Techniques shall be employed to prevent the blowing of dust or sediment from the site.
 - (7) Techniques that divert upland runoff past disturbed slopes shall be employed.
- (d) Sediment Controls
- (1) Sediment controls shall be provided in the form of settling basins or sediment traps or tanks, and perimeter controls.
 - (2) Where possible, settling basins shall be designed in a manner that allows adaptation to provide long term stormwater management.
 - (3) Adjacent properties shall be protected by the use of a vegetated buffer strip, in combination with perimeter controls.
- (e) Waterways and Watercourses
- (1) When a wet watercourse must be crossed regularly during construction, a temporary stream crossing shall be provided.
 - (2) When in-channel work is conducted, the channel shall be stabilized before, during and after work.
 - (3) All on-site stormwater conveyance channels shall be designed according to the criteria outlined in the Storm Water Management Handbook for Construction Activities, City of Houston, Harris County, and HCFCO, 2006 Edition.
 - (4) Stabilization adequate to prevent erosion shall be provided at the outlets of all pipes and paved channels.
- (f) Construction Site Access
- (1) A temporary access road shall be provided at all sites.
 - (2) Other measures may be required at the discretion of City Engineer in order to ensure that sediment is not tracked onto public streets by construction vehicles, or washed into storm drains.

Sec. 38-56. Inspection

- (a) City Engineer or designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, and

filling work bearing the stamp of approval of the City Engineer shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify City Engineer at least two (2) working days before the following:

- (1) Start of Construction;
- (2) Erosion and Sediment Control Measures are in place and stabilized;
- (3) Site Clearing has been completed;
- (4) Rough Grading has been completed;
- (5) Final Grading has been completed;
- (6) Close of the Construction Season; and
- (7) Final Landscaping.

(b) The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for additional control measures. All inspections shall be documented in written form and submitted to City Engineer at the time interval specified in the approved permit.

(c) The City Engineer or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under Section b.

Sec. 38-57. Enforcement

(a) **Stop-Work Order; Revocation of Permit.**

- (1) The City Engineer may issue a stop-work order for any clearing or tree removal activity being conducted without a permit required by this Article.
- (2) In the event that any person holding a site development permit pursuant to this ordinance violates the terms of the permit, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City Engineer may suspend or revoke the site development permit.

(b) **Violation and Penalties**

- (1) No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be

done, contrary to or in violation of any terms of this ordinance.

- (2) A person commits an offense if the person intentionally or knowingly clears land or removes trees, or causes the clearing of land or removal of trees, without a permit for such clearing of land or removal of trees required by this Article.
- (3) A person commits an offense if the person intentionally or knowingly clears land or removes trees, or cause the clearing of land or removal of trees, in violation of the terms of a permit issued under this Article.
- (4) Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor.”

Section 2. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 3. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, violate any provision of this Ordinance, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2000. Each day of violation shall constitute a separate offense.

Section 4. It is the intent of the City that this Ordinance shall comply in all respects with the applicable provisions of the United States Constitution, the Texas Constitution, and the Charter of the City of Tomball. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 5. This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law and the City’s Home Rule Charter.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 5TH DAY OF OCTOBER 2009.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN WEBB	<u>ABSENT</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 19TH DAY OF OCTOBER 2009.

COUNCILMAN WEBB	<u>AYE</u>
COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

Gretchen Fagan
Gretchen Fagan, Mayor

ATTEST:

Doris Speer
Doris Speer, City Secretary