

**AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS**

**ORDINANCE NO. 07-16**

**AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES BY RENUMBERING CHAPTER 23A, "STORM WATER PROTECTION", ARTICLE 23A.01, "STORM WATER", AS A NEWLY ADOPTED ARTICLE 19.10, "STORM WATER PROTECTION", SECTIONS 19.10.001 THROUGH 19.10.027; AND RENUMBERING CHAPTER 23A, ARTICLE 23A.02, "MUNICIPAL STORM WATER UTILITY SYSTEM", AS A NEWLY ADOPTED ARTICLE 19.09; ADOPTING ARTICLE 19.08, "RESERVED"; AND REPEALING CHAPTER 23A IN ITS ENTIRETY; PROVIDING A SEVERABILITY CLAUSE; REPEALING CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City Council of the City has determined that it is in the best interest of the City to adopt this ordinance to renumber the "Storm Water Protection" provisions of the City's Code of Ordinances, as provided herein.

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

**SECTION 1.** That the City Council for the City of Seagoville hereby amends the Code of Ordinances by repealing Chapter 23A, Storm Water Protection, Article 23A.01, "Storm Water Protection", Sections 23A.01.001 through 23A.01.027, in its entirety; and replacing the same with the new Chapter 19, Article 19.10, Storm Water Protection, Sections 19.10.001 through 19.10.027, to read as follows:

**"CHAPTER 19. UTILITIES.**

....

**ARTICLE 19.10. STORM WATER PROTECTION**

**Sec. 19.10.001 Definitions.**

For the purposes of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning, and any words not herein defined shall be construed in context used and by ordinary interpretation and not as a word of art:

Agricultural Storm Water Runoff. Any storm water runoff from orchards, cultivated crops, pastures, range lands, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 C.F.R. § 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 C.F.R. § 122.24.

Best Management Practices (BMPs). Schedule 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 practices, operating procedures, and practices to control runoff, spills or leaks, waste disposal, or drainage from raw materials storage areas.

Board of Adjustment. The Board of Adjustment for the City of Seagoville, Texas.

Building. Any structure, either temporary or permanent, with walls and a roof, designed to shelter a person, animal, or property, and occupying more than 100 square feet of area.

City. The City of Seagoville, Texas, or its agents.

Clean Water Act (CWA). The Federal Water Pollution Control Act or the 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.*, as it exists and as it may be amended.

Code Enforcement Official. A City employee or person or entity acting under a contract with the City, authorized to enforce the provisions of this Article and City ordinances, including, but not limited to the building official, inspector, Code Enforcement Officer, Code Compliance Officer, or his/her designee.

Construction Activity. Includes soil disturbance, including clearing, grading, and excavating; and does not include 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).

Small Construction Activity is construction activity that results in land disturbances 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 acres of land.

Construction Site Notice. A signed and certified submission to the operator of the MS4 (*i.e.*, the City) from an operator of a Small Construction Activity identifying coverage pursuant to the Construction General Permit.

Contaminated. Containing a harmful quantity of any substance.

Contamination. The presence of or entry into a public water supply system, the MS4, surface water in the state, or waters of the United States of any substance which may be deleterious to the public health and/or the quality of the water, as determined by, or pursuant to, federal or state law.

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

Discharge. Any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the MS4, surface water in the state, or waters of the United States.

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

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

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

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

Fire Code. Article 5.02, the International Fire Code, of the City Code.

Fire Department. The Seagoville Fire Department or any duly authorized representative thereof.

Fire Protection Water. Any water, and any substances or materials contained therein, used by any person other than the Fire Department to control or extinguish a fire.

Garbage. For the purpose of this Article, solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products.

Ground Water Infiltration. For the purposes of this Article, ground water 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.

**Harmful Quantity.** The amount of any substance that will cause pollution of surface water in the state or waters of the United States, or that will cause lethal or sub-lethal adverse effects on representative, sensitive aquatic monitoring organisms, upon their exposure to samples of any discharge into surface water in the state, waters of the United States, or the MS4, as determined by, or pursuant to, federal or state law.

**Hazardous Materials.** Any item or agent (biological, chemical, physical) that has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors.

**Herbicide.** A substance or mixture of substances used to destroy a plant or to inhibit plant growth.

**Household Hazardous Waste.** Waste from materials utilized for residential or housekeeping purposes containing regulated substances which either singularly or by their interaction with other wastes or by their accumulation in the MS4 becomes injurious or potentially injurious to human, plant, or animal life, or property. For purposes of this Article, household hazardous wastes include but are not limited to paint, paint thinners, paint solvents, bleaches, and drain cleaners.

**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 storm water.

**Industrial Activity.** Any activity subject to the Multi-Sector General Permit.

**Land Disturbance Activity.** Any activity which changes the volume or discharge rate of stormwater runoff from the land surface. This includes grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

**Maintenance Agreement.** A formal contract between a local government and a property owner to guarantee long-term maintenance of stormwater management practices.

**Municipal Separate Storm Sewer System (MS4).** A separate storm sewer system owned or operated by the United States, a state, City, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, that discharges to surface water in the state.

**National Pollutant Discharge Elimination System (NPDES).** The federal program under which the administrator of the U.S. Environmental Protection Agency can authorize discharges of waste

to waters of the United States according to Section 402 of the Clean Water Control Act, and may also delegate this permitting authority to the State of Texas.

No Exposure Certification (NEC). A written submission to the Executive Director TCEQ from an applicant for the Multi-Sector General Permit notifying the applicant's intent to obtain a conditional exclusion from permit requirements by certifying that there is no exposure of industrial material or activities to precipitation or runoff.

Non-Stormwater Discharge. Any discharge to the storm drain system that is not composed entirely of stormwater.

Notice of Change (NOC). Written notification from a permittee pursuant to the Multi-Sector General Permit or the Construction General Permit to the Executive Director of TCEQ providing changes to information that was previously provided to TCEQ in a Notice of Intent (NOI) or No Exposure Certification (NEC) form.

Notice of Intent (NOI). A written submission to the Executive Director of TCEQ from an applicant requesting coverage under the Multi-Sector General Permit or the Construction General Permit.

Notice of Termination (NOT). A written submission to the Executive Director of TCEQ from a permittee authorized under the Multi-Sector General Permit or the Construction General Permit requesting termination of coverage.

NPDES Permit. A permit issued by EPA that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

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

Owner. The person who owns a facility or part of a facility.

Person. Any individual, firm, partnership, association, business, corporation, or other entity.

Pesticide. A substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant (as those terms are defined in Section 76.001 of the Texas Agriculture Code).

Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any surface water in the state. The term "pollutant" does not include tail water or

runoff water from irrigation or rainwater runoff from cultivated or uncultivated rangeland, pastureland, and farmland. For the purpose of this Article, the term “pollutant” includes sediment.

**Pollution.** The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any surface water in the State that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

**Premises.** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**Property.** All privately owned, occupied, or unoccupied property, including vacant land, and/or a building designed or used for residential, commercial, business, industrial, or religious purposes. The term shall also include a yard, ground, wall, driveway, fence, porch, steps, or other structure appurtenant to the property or otherwise known as curtilage.

**Publicly Owned Treatment Works (POTW).** A treatment works, as defined by Section 212 of the Clean Water Act, owned by the City or other public entity, including any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any sewers, pipes, and other conveyances which convey wastewater to a treatment plant.

**Regulated Construction Activity.** A large construction activity or a small construction activity, as those terms is defined herein.

**Release.** Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the (MS4), surface water in the State, or waters of the United States.

**Rubbish.** Nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, brush, or similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).

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

1. Owned or operated by the United States, 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, storm water, 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 § 208 of the CWA;

2. Designed or used for collecting or conveying storm water;
3. Which is not a combined sewer;
4. Which is not part of a publicly owned treatment works (POTW) as defined in 40 C.F.R. § 122.2; and
5. Which was not previously authorized under an NPDES or a TPDES individual permit as a medium or large municipal separate storm sewer system, as defined at 40 C.F.R. § 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. 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 an MS4 that is also operated by that public entity.

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

**Storm Water and Storm Water Runoff.** Rainfall runoff, snow melt runoff, and surface runoff and drainage.

**Storm Water Pollution Prevention Plan (SWPPP).** A plan required by either the Construction General Permit or the Multi-Sector General Permit which describes and ensures the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with construction or other industrial activity at the facility.

**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 non-navigable, 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.

Texas Pollutant Discharge Elimination System (TPDES). The state program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under Clean Water Act §§ 307, 318, 402, and 405, the Texas Water Code, and Texas Administrative Code regulation.

TPDES General Permit for Storm Water Discharges Associated with Construction Activity (Or the Construction General Permit) (CGP). The Construction General Permit issued by TCEQ on February 15, 2008, TPDES General Permit No. TXR150000, as it exists and as it may be renewed and/or amended.

TPDES General Permit for Storm Water Discharges Associated with Industrial Activity (Or the Multi-Sector General Permit) (MSGP). The Multi-Sector General Permit issued by TCEQ on August 14, 2006, TPDES General Permit No. TXR050000, as it exists and as it may be renewed and/or amended.

TPDES General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (Or the Small MS4 General Permit). The Small MS4 General Permit issued by TCEQ on December 13, 2013, TPDES General Permit No. TXR040000, as it exists and as it may be renewed and/or amended.

TPDES Permit. A permit issued by TCEQ that authorizes the discharge of pollutants to surface water in the State and/or waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Uncontaminated. Not containing a harmful quantity of any substance, as determined by, or pursuant to, federal or state law.

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

Waters of the United States (Or Waters of the U.S.).

1. 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;
2. all interstate waters, including interstate wetlands;
3. 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:

- (A) which are or could be used by interstate or foreign travelers for recreational or other purposes;
  - (B) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - (C) which are used or could be used for industrial purposes by industries in interstate commerce;
4. all impoundments of waters otherwise defined as waters of the United States under this definition;
  5. tributaries of waters identified in paragraphs 1. through 4. of this definition;
  6. the territorial sea; and
  7. wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs 1. through 6. 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 C.F.R. § 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal areas in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the CWA, the final authority regarding CWA jurisdiction remains with EPA.

Yard Waste. Leaves, grass clippings, yard and garden debris, and brush that results from landscape maintenance and land-clearing operations.

#### **Sec. 19.10.002. Abbreviations.**

The following abbreviations, when used in this Article, shall have the designated meanings:

C.F.R. – Code of Federal Regulation

CGP – Construction General Permit, TPDES General Permit TXR150000

CWA – Clean Water Act

EPA – U.S. Environmental Protection Agency

MS4 – Municipal Separate Storm Sewer System

MSGP – Multi-Sector General Permit, TPDES General Permit No. TXR050000

NEC – No Exposure Certification

NOC – Notice of Change

NOI – Notice of Intent

NOT – Notice of Termination

NPDES – National Pollutant Discharge Elimination System

POTW – Publicly Owned Treatment Works

SWMP – Storm Water Management Program

SWPPP – Storm Water Pollution Prevention Plan

TCEQ – Texas Commission on Environmental Quality

TPDES – Texas Pollutant Discharge Elimination System

**Sec. 19.10.003. Applicability.**

This Article, including any amendments or revisions thereto, shall apply to all water entering the MS4 generated on any developed and undeveloped lands lying within the City of Seagoville.

**Sec. 19.10.004. Intent and Purpose**

This Article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) of the City of Seagoville in order to comply with requirements of the Texas Pollutant Discharge Elimination System (TPDES) permit process. The objectives of this Article are:

- (a) To regulate pollutants from stormwater discharges into and from the MS4;
- (b) To prohibit illicit connections and discharges to the MS4;
- (c) To control the discharge of spills and prohibit dumping or disposal of materials other than stormwater into the small MS4;
- (d) To enforce compliance with the permittee's ordinances, permits, contracts, or orders;
- (e) To require installation, implementation, and maintenance of control measures;

- (f) 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;
- (g) To establish legal authority to implement inspection and enforcement procedures to ensure compliance with this Article;
- (h) To respond to non-compliance with Best Management Practices (BMPs) required by the small MS4 consistent with its ordinances or other regulatory mechanism(s);
- (i) To assess penalties, including monetary, civil, or criminal penalties; and
- (j) To enter into interagency or interlocal agreements or other maintenance agreements, as necessary.

**Sec. 19.10.005. Administration.**

- (a) The Code Enforcement Official shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed upon the Code Enforcement Official may be delegated by the Code Enforcement Official to persons or entities acting in the beneficial interest of or in the employ of the City.
- (b) The City Manager, or the City Manager's designee, is hereby granted and shall have the authority to enforce the provisions of this Article and conduct all proceedings in the manner provided herein.

**Sec. 19.10.006. Regulatory Consistency.**

This Article shall be construed to assure consistency with the Clean Water Act and the Texas Water Code, and amendments thereto, or any applicable implementing regulations.

**Sec. 19.10.007. Ultimate Responsibility of Discharger.**

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore, this Article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into surface water in the state or waters of the United States caused by said person. This Article shall not create liability on the part of the City of Seagoville, or any agent or employee thereof, for any damages that result from the discharger's reliance on this Article or any administrative decision lawfully made there under.

**Sec. 19.10.008. General Prohibition.**

- (a) No person shall, and it shall be an offense to, introduce or caused to be introduced into the municipal separate storm sewer system (MS4) any discharge that is not composed entirely of storm water.
- (b) It is an affirmative defense to any enforcement action for violation of Subsection (a) of this section that the discharge was composed entirely of one or more of the following categories of discharges:
  - (1) A discharge authorized by, and in full compliance with, a TPDES permit or an NPDES permit (other than the TPDES permit authorizing discharges from the MS4);
  - (2) A discharge or flow from water line flushing, but not including a discharge from water line disinfection by super chlorination or other means unless it contains no harmful quantity of total residual chlorine ("TRC") or any other chemical used in line disinfection;
  - (3) A discharge or flow from runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;
  - (4) A discharge or flow from a potable water source not containing any harmful substances or material from the cleaning or draining of a storage tank or other container;
  - (5) A discharge or flow from a diverted stream;
  - (6) A discharge or flow from rising ground waters and springs;
  - (7) Uncontaminated ground water infiltration (as defined by 40 C.F.R. § 35.2005(20)) to the MS4;
  - (8) A discharge or flow from uncontaminated pumped ground water;
  - (9) An uncontaminated discharge or flow from foundation and footing drains;
  - (10) An uncontaminated discharge or flow of water from crawl space pumps;
  - (11) A discharge or flow from individual residential vehicle washing;
  - (12) A discharge or flow from wetlands and riparian habitats;

- (13) A discharge or flow from fire fighting activities by the Fire Department (fire fighting activities do not include washing of trucks, run-off water from training activities, test water from fire suppression systems, and similar activities);
  - (14) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials that the Fire Code requires to be contained and treated prior to discharge, in which case treatment adequate to remove harmful quantities of pollutants must have occurred prior to discharge;
  - (15) Agricultural storm water runoff; and
  - (16) A discharge or flow from other similar occasional incidental non-storm water discharges, as determined by the City Manager.
- (c) No affirmative defense shall be available under Subsection (b) of this Section if:
- (1) The discharge or flow in question has been determined by the Code Enforcement Official to be a source of a pollutant(s) or pollution to surface water in the State, waters of the United States, or the MS4;
  - (2) Written notice of such determination has been provided to the discharger; and
  - (3) The discharge has continued after the expiration of the time given in the notice to cease the discharge. The correctness of the Code Enforcement Official's determination that a discharge is a source of a pollutant or pollutants may be reviewed in any administrative or judicial enforcement proceeding in accordance with City ordinances and state law, as may be applicable.

**Sec. 19.10.009. Specific Prohibitions and Requirements.**

- (a) The specific prohibitions and requirements in this Section are not inclusive of all the discharges prohibited by the General Prohibition in Section 19.10.007.
- (b) A person commits an offense if the person introduces or causes to be introduced into the MS4 any harmful quantity of any substance.
- (c) A person commits an offense if the person introduces or causes to be introduced into the MS4 any discharge that causes or contributes to causing the City to violate a water quality standard or the City's authorization pursuant to the Small MS4 General Permit for discharges from its MS4.
- (d) A person commits an offense if the person dumps, spills, leaks, pumps, pours, emits, empties, discharges, leaches, disposes, or otherwise introduces or causes to be introduced, allows, or permits to be introduced any of the following substances into the MS4:
  - (1) Any used motor oil, antifreeze, or any other motor vehicle fluid;

- (2) Any industrial waste;
- (3) Any hazardous waste, including household hazardous waste;
- (4) Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
- (5) Any garbage or rubbish;
- (6) Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus, or heavy equipment, by a business or public entity that operates more than ten such vehicles;
- (7) Any direct discharge of a pesticide or fertilizer;
- (8) Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
- (9) Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
- (10) Any wastewater from commercial floor, rug, or carpet cleaning;
- (11) Any wastewater from the wash down or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the wash down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released materials has been previously removed;
- (12) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blow down from a boiler;
- (13) Any ready-mix concrete, mortar, ceramic, or asphalt base material or hydro mulch material, or material from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;
- (14) Any runoff or wash down water from any animal pen, kennel, or fowl or livestock containment area containing more than five (5) animals;
- (15) Any filter backwash from a swimming pool, fountain, or spa;

- (16) Any swimming pool water containing any harmful quantity of chlorine, muriatic acid, or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
  - (17) Any discharge from water line disinfection by super chlorination or other means if it contains any harmful quantity of chlorine or any other chemical used in water line disinfection;
  - (18) Any fire protection water containing oil or hazardous substances or materials that the Fire Code in this Code of Ordinances requires to be contained and treated prior to discharge, unless treatment is adequate to remove pollutants occurs prior to discharge. (This prohibition does not apply to discharges or flow from fire fighting activities by the Fire Department as further set forth herein.)
  - (19) Any water from a water curtain in a spray room used for painting vehicles or equipment;
  - (20) Any contaminated runoff from a vehicle salvage yard, junk yard, auto repair activities, or storage of vehicles on unimproved surfaces;
  - (21) Any substance or material that will damage, block, or clog the MS4;
  - (22) Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge satisfies all of the following criteria:
    - (a) Compliance with all state and federal standards and requirements;
    - (b) No discharge containing a harmful quantity of any pollutant; and
    - (c) No discharge containing more than 50 parts per billion of benzene; 500 parts per billion combined total quantities of benzene, toluene, ethylbenzene, and xylene (BTEX); or 15 milligrams per liter of total petroleum hydrocarbons (TPH).
- (e) Yard Waste Regulation. A person commits an offense if the person:
- (1) Discharges, deposits, discards, or dumps, or causes or allows to be discharged, deposited, discarded, or dumped any grass clippings, leaf litter, brush cuttings, and/or animal waste into the MS4.
  - (2) Places or causes to be placed or dropped, grass clippings, leaf litter, brush cuttings, and/or animal waste within any street in the corporate limits of the City in such a manner that the same may be washed by the flow of water into the MS4.

It shall be a defense to prosecution that these wastes occurred naturally or from normal landscape maintenance (*e.g.*, leaves falling from trees, grass clippings left on lawns). Intentionally sweeping or blowing grass clippings or leaves into the streets or gutters is prohibited.

- (f) A person commits an offense if the person introduces or causes to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation, or other construction activities, or associated with filling or other placement or disposal of soil, rock, or other earthen materials, in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable.
- (g) **Illicit Connection Regulation.**
  - (1) The construction, use, maintenance, or continued existence of illicit connections to the MS4 is prohibited.
  - (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (h) A person commits an offense if the person causes or allows any pavement wash water from a service station to be discharged into the MS4 unless such wash water has passed through a properly functioning and maintained grease, oil, and sand interceptor before discharge into the MS4.
- (i) **Used Oil Regulation.** A person commits an offense if the person:
  - (1) discharges used oil into the MS4 or a sewer, drainage system, septic tank, surface water, ground water, or water course;
  - (2) knowingly mixes or commingles used oil with solid waste that is to be disposed of in a landfill or knowingly directly disposes of used oil on land or in a landfill; or
  - (3) applies used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil into the environment.

**Sec. 19.10.010. Nuisance and General Violation.**

- (a) An actual or threatened discharge to the MS4 that violates or would violate this Article is hereby declared to be a nuisance and shall constitute an offense as provided in Section 19.10.019 of this Article.
- (b) A line conveying sewage or designed to convey sewage that is connected to the MS4 is hereby declared to be a nuisance.

- (c) Notwithstanding any other provision herein to the contrary, the Code Enforcement Official shall not be required to provide written notice or a warning prior to taking criminal enforcement action and/or any other legally available enforcement action.
- (d) If the City mails notice in accordance with the provisions stated in this Article, and the notice is returned “refused” or “unclaimed,” said notice shall be deemed delivered for purposes of enforcement action as provided herein.

**Sec. 19.10.011. Submission of NOI or Construction Site Notice to City.**

- (a) The operator of a facility, including construction sites, required to have a TPDES permit to discharge storm water associated with industrial activity or regulated construction activity shall submit a copy of the NOI, Construction Site Notice, NOC, NOT, and/or NEC to the City of Seagoville’s Director of Public Works at the same time the operator submits the original NOI, NOC, NOT, and/or NEC to the TCEQ or is required to submit the Construction Site Notice to the operator of the MS4 (i.e., the City) by the Construction General Permit.
- (b) The copy of the NOI, Construction Site Notice, NOC, NOT, and/or NEC may be delivered to the Director of Public Works either in person or by mailing it to:

Notice of Intent to Discharge Storm Water  
Director of Public Works  
City of Seagoville  
702 N. Highway 175  
Seagoville, Texas 75159

- (c) A person commits an offense if the person operates a facility that is discharging storm water associated with an industrial activity or a regulated construction activity without having submitted a copy of any documentation required by this Section, including the NOI and the Construction Site Notice to the Director of Public Works.

**Sec. 19.10.012. Modification of Storm Water Pollution Prevention Plans.**

- (a) The City Manager may require any operator of a facility to modify the facility’s storm water pollution prevention plan (SWPPP) if in the best professional judgment of the City Manager, the SWPPP does not comply with this Article or with the requirements of the facility’s TPDES or NPDES permit to discharge storm water associated with an industrial activity or a regulated construction activity.
- (b) The deficiencies in a facility’s SWPPP will be identified in writing, and the City Manager will give the facility operator a reasonable amount of time, not to exceed thirty (30) days, to make the necessary changes in the SWPPP.

**Sec. 19.10.013. Best Management Practices (BMPs) to Reduce Stormwater Pollutants**

The City of Seagoville has the authority to respond to non-compliance with BMPs required by the small MS4 in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)g. The owner or operator of a commercial or industrial establishment shall implement, at their own expense, appropriate pollution control measures through the use of structural and non-structural BMPs to prevent and reduce discharge of pollutants into the municipal storm drain system or watercourses. The BMPs must be identified in the Stormwater Pollution Prevention Plan (SWP3) to satisfy requirements of the TPDES permit.

**Sec. 19.10.014. Maintenance and Repair of Stormwater Facilities**

- (a) The City of Seagoville has the authority to require installation, implementation, and maintenance of control measures in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)d.
- (b) **Maintenance Easement:** Prior to the issuance of any permit that has a stormwater management facility the applicant of the site must implement a maintenance easement agreement that binds all subsequent owners of land served by the stormwater management facility. The agreement allows the City of Seagoville or their contractor/agent access to the facility to periodically inspect if the facility is maintained in proper working condition and meets design standards and other provisions established by this Article. The easement agreement shall be recorded by the applicant in the land records.
- (c) **Maintenance Covenants:** The applicant of the site must develop a maintenance covenant articulating a schedule of maintenance activities and plans for periodic inspections to assess the proper functioning of the stormwater management facility. The maintenance covenant shall be approved by the City of Seagoville and recorded into the land record prior to final plan approval.
- (d) **Requirements for Annual Self-Inspections:** All stormwater management facilities must undergo, at minimum, an annual self-inspection to document maintenance and repair needs and to verify compliance with the requirements of this Article. The inspections shall be in writing and either submitted to the local jurisdiction or maintained in a manner that allows local inspectors the ability to review the results of inspections in conjunction with a site compliance review. Maintenance and repair may include: removal of silt, litter, and other debris from all catch basins, inlets and drainage pipes; cutting grass and vegetation removal; and replacement of landscape vegetation. Maintenance needs must be addressed in a timely manner as determined by the City of Seagoville. The City of Seagoville may implement more stringent inspection and maintenance requirements.
- (e) **Failure to Maintain Practices:** If the stormwater management facility becomes a danger to public safety or public health, the City of shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have thirty (30) days to meet maintenance and repair requirements. If the owner of the facility fails to comply with the requirements of the

maintenance covenant, the City of Seagoville, after reasonable notice, may perform all necessary work to bring the facility into compliance.

**Sec. 19.10.015. Right of Entry: Inspection and Sampling.**

- (a) The Code Enforcement Official shall have the right to enter and inspect the premises of any person, including facilities, equipment, practices, or operations related to stormwater discharges to the small MS4 in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)f, to determine if the discharger is complying with all requirements of this Article. Dischargers shall allow the Code Enforcement Official ready access to all parts of the premises for purposes of inspection, sampling, records, examination, and copying, and for the performance of any additional duties. Dischargers shall make available to the Code Enforcement Official, upon request, any SWPPPs, modifications, thereto, self-inspection reports, monitoring records, compliance evaluations, NOIs, Construction Site Notices, NOCs, NOTs, NECs, and any other records, reports, and other documents related to compliance with this Article.
- (b) Where the discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Code Enforcement Official will be permitted to enter without delay for the purposes of performing his/her responsibilities.
- (c) The Code Enforcement Official shall have the right to set up on the discharger's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the discharger's operations, at the discharger's sole cost and expense.
- (d) The Code Enforcement Official may require any discharger to the MS4, surface water in the State, or waters of the United States to conduct specified sampling, testing, analysis, and other monitoring of its storm water dischargers, and may specify the frequency and parameters of any such required monitoring, at the discharger's sole cost and expense.
- (e) The Code Enforcement Official may require the discharger to install monitoring equipment as necessary at the discharger's sole cost and expense. The facility's sampling and monitoring equipment, as required by this Section, shall be maintained at all times in a safe and proper operating condition by the discharger at the discharger's sole cost and expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- (f) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the discharger at the written or verbal request of the Code Enforcement Official and shall not be replaced. The costs of clearing such access shall be borne by the discharger.

- (g) Any violation of this Section, including unreasonable delays in allowing the Code Enforcement Official access to the discharger's premises shall be a violation of this Article and shall constitute an offense under Section 19.10.024
- (h) If entry onto the property is refused, the Code Enforcement Official shall have every recourse provided by law, including but not limited to an administrative search warrant or an injunction to secure entry. If the owner, operator, discharger, or person in control of the property cannot be identified or located, the Code Enforcement Official shall be authorized to enter the property to the extent allowed by, and in accordance with, law.

#### **Sec. 19.10.016. Enforcement**

The City of Seagoville has the authority to assess penalties, including monetary, civil, or criminal penalties in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)h.

If the City of Seagoville finds a person in violation with this Article, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require:

- Monitoring, analysis, and reporting
- Elimination of illicit connections or discharges
- Termination of existing discharges or practices and/or operations in violation of this Article
- Abatement and/or remediation of stormwater pollution or contamination hazards
- Payment of fines to cover administrative and remediation costs
- Implementation of pollution control measures or treatment BMPs

If the property must be remediated, the notice must establish a deadline to restore the site. The notice must further advise that, if the violator fails to remediate the site by the deadline, a designated governmental agency or contractor will restore the site at the expense of the violator.

#### **Sec. 19.10.017. Administrative Enforcement Remedies**

- (a) Warning Notice. When the Code Enforcement Official finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the Code Enforcement Official may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the Code Enforcement Official to take any action, including emergency action, criminal enforcement or any other enforcement action, without first issuing a Warning Notice.

- (b) Notification of Violation. When the Code Enforcement Official finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the Code Enforcement Official may serve upon that person a written Notice of Violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention of reoccurrence thereof, to include specific required actions, shall be submitted by the alleged violator to the Code Enforcement Official. If the alleged violator denies that any violation occurred and/or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to the Code Enforcement Official within ten (10) days of receipt of the notice. Submission of an explanation and/or plan in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Code Enforcement Official to take any action, including emergency action, criminal enforcement or any other enforcement action, without first issuing a Notice of Violation.
- (c) Consent Orders. The City Manager may enter into Consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any person responsible for noncompliance with any provision in this Article or any order issued hereunder. Such documents may include specific action to be taken by the person to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Subsections (e), and (f), of this Section and shall be judicially enforceable. The civil penalties provided in Section 19.10.018 of this Article shall be applicable to a violation of this Section or any person's failure to comply with a Consent Order.
- (d) Show Cause Hearings. The City Manager may order any person who has violated, or continues to violate, any provision of this Article, or any order issued hereunder, to appear before the City Manager and show cause why a proposed enforcement action should not be taken. Notice shall be served on the alleged violator specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the alleged violator show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the alleged violator. The hearing shall be conducted pursuant to the rights and procedures specified in Section 19.10.016 of this Article. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the alleged violator, including, but not limited to, criminal or injunctive relief.
- (e) Compliance Orders. When the City Manager finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the City Manager may issue an order to the violator directing that the violator come into compliance within a specified time period. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the MS4, surface water in the State, and waters of the United States. A compliance order

may not extend the deadline for compliance established by a state or federal standard or requirement, nor does a compliance order relieve the person of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the violator, including, but not limited to, criminal or injunctive relief. The civil penalties provided in Section 19.10.018 of this Article shall be applicable to a violation of this Section or any person's failure to comply with a Compliance Order.

- (f) Emergency Cease and Desist Orders. When the City Manager finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) have caused or contributed to an actual or threatened discharge to the MS4, surface water in the State, or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the City Manager may issue an order to the violator directing the violator to immediately cease and desist all such violations and directing the violator to:
- (1) Immediately comply with all requirements of this Article; and
  - (2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the City Manager may take such steps as deemed necessary to prevent or minimize harm to the MS4, surface water in the State, or waters of the United States, and/or endangerment to persons or to the environment. The City Manager may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the City Manager that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this Article. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the City Manager within five (5) days of the receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator. The civil penalties provided in Section 19.10.023 of this Article shall be applicable to a violation of this Section or any person's failure to comply with an Emergency Cease and Desist Order.

### **Sec. 19.10.018. Response to Releases**

The City of Seagoville has the authority to respond to and contain releases into the small MS4 in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)b. When the person responsible has knowledge of any known or suspected release of materials resulting in or potentially resulting in unauthorized discharges into a storm sewer system or surface water in the state, the person must contain and clean up the release. If hazardous materials are released, the person must immediately notify emergency response agencies. If non-hazardous materials are released, the person must notify the authorized enforcement agency no later than the next business day. Notifications in person or by telephone must be confirmed by written notice addressed and mailed to the City of Seagoville.

### **Sec. 19.10.019. Emergency Suspension of Utility Service and MS4 Access.**

- (a) The City may, without prior notice, suspend water service, sanitary sewer service, and/or MS4 discharge access to a person discharging to the MS4, surface water of the state, waters of the United States, or the POTW when such suspension is necessary to stop an actual or threatened discharge which:
  - (1) Presents or may present imminent and substantial danger to the environment or to the health or welfare of persons; or
  - (2) Presents or may present imminent and substantial danger to the MS4, surface water in the State, or waters of the United States.
- (b) When the Code Enforcement Official determines that City-provided water and/or sanitary sewer service or MS4 access needs to be suspended pursuant to subsection (a), the Code Enforcement Official shall request the City Manager to do so.
- (c) As soon as is practicable after the suspension of service or MS4 access, the Code Enforcement Official shall notify the violator of the suspension in person or by registered mail or certified mail (return receipt requested) and shall order the violator to cease the discharge immediately. When time permits, the Code Enforcement Official should also attempt to notify the violator prior to suspending service or access.
- (d) If the violator fails to comply with an order issued under subsection (c), the City Manager may take such steps as the City Manager deems necessary to prevent or minimize damage to the MS4, surface water in the State, or waters of the United States, or to minimize danger to persons.
- (e) The City shall not reinstate suspended services or MS4 access to the violator until:
  - (1) The violator presents proof, satisfactory to the City Manager, that the non-complying discharge has been eliminated and its cause determined and corrected;

- (2) The violator pays the City for all costs the City incurred in responding to, abating, and remediating the discharge or threatened discharge; and
- (3) The violator pays the City for all costs the City will incur in reinstating service or access.
- (f) A violator whose service or access has been suspended or disconnected may appeal such enforcement action to the City Manager, in writing, within ten (10) days of notice of the suspension in accordance with Section 19.10.021 of this Article.
- (g) The City may obtain a lien against the property to recover its response costs pursuant to the procedure set out in Section 19.10.022 of this Article.
- (h) The remedies provided by this Section are in addition to any other remedies set out in this Article. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.

**Sec. 19.10.020. Non-Emergency Suspension of Utility Service and MS4 Access.**

- (a) The City may terminate the City-provided water supply, sanitary sewer connection, and/or MS4 access of any person discharging to the MS4 in violation of this Article, if such termination would abate or reduce an illicit discharge.
- (b) The Code Enforcement Official will notify a violator of the proposed termination of its water supply, sanitary sewer connection, and/or MS4 access. The violator may petition the City Manager for a reconsideration and hearing pursuant to Section 19.10.021 of this Article.
- (c) The City shall not reinstate suspended services or MS4 access to the discharger until:
  - (1) The violator presents proof, satisfactory to the City Manager, that the non-complying discharge has been eliminated and its cause determined and corrected; and
  - (2) The violator pays the City for all costs the City will incur in reinstating service or MS4 access.
- (d) The remedies provided by this section are in addition to any other remedies set out in this Article. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.
- (e) A person commits an offense if the person reinstates, causes to reinstate, permits or receives a benefit from the reconnection of the water service, sanitary sewer service, and/or MS4 access to premises terminated pursuant to this Section, without the prior approval of the City Manager.

**Sec. 19.10.021. Right to Reconsideration and Hearing**

- (a) Any person subject to a Compliance Order under Section 19.10.017(e), an Emergency Cease and Desist Order under Section 19.10.017(f), an Emergency Suspension of Utility Service or MS4 Access under Section 19.10.019, or a Non-Emergency Suspension of Utility Service or MS4 Access under Section 19.10.020 of this Article may petition the Board of Adjustment to reconsider the basis of the City Manger or Code Enforcement Official's order or suspension within ten (10) days of the issuance of such an order or suspension.
- (b) Failure to submit a timely written petition for reconsideration shall be deemed to be a waiver of any further right to administrative reconsideration or review of the order or suspension.
- (c) In its petition, the petitioning party must indicate the provisions of the order or suspension objected to, the reasons for the objection(s), any facts that are contested, the evidence that supports the petitioning party's view of the facts, any alternative terms of an order that the petitioning party would accept, and whether the petitioning party requests a hearing on its petition. Failure of the petitioning party to request a hearing in its petition shall constitute a waiver of the same.
- (d) The effect of any Compliance Order under Section 19.10.017(e) or Non-Emergency Suspension of Utility Service or MS4 Access under Section 19.10.020 shall be stayed pending the Board of Adjustment's reconsideration of the petition, and any hearing thereon, unless the Board of Adjustment expressly makes a written determination to the contrary. The effectiveness of any Emergency Cease and Desist Order under Section 19.10.017(f) or Emergency Suspension of Utility Service or MS4 Access under Section 19.10.019 shall not be stayed pending the Board of Adjustment's reconsideration, or any hearing thereon, unless the Board of Adjustment expressly and in writing stays its emergency order or emergency suspension of utility service or MS4 access.
- (e) Within fifteen (15) days of the submittal of a petition for reconsideration, the Board of Adjustment shall either:
  - (1) Grant the petition in whole or in part and withdraw or modify the order or suspension accordingly;
  - (2) Deny the petition, without hearing if a hearing was not timely requested or no issue of material fact was raised by the petition; or
  - (3) If a hearing has been timely requested and a material fact has been raised, set a hearing on the petition.
- (f) The Board of Adjustment may also set a hearing if the Board of Adjustment determines that a show cause hearing should be conducted, if grounds exist to revoke or suspend a

permit issued under this Article, or if grounds exist to terminate utilities on a non-emergency basis.

- (g) Written notice of any hearing set by the Board of Adjustment pursuant to Subsections (e) or (f), above, shall be served on the petitioning party personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the petitioning party.
- (h) Notice shall specify the date, time, and place of the hearing. Notice that is mailed shall be deemed received three (3) days after it is placed in a mail receptacle of the United States Postal Service.
- (i) The Board of Adjustment may, prior to rendering a decision at a hearing where the petitioner has failed to appear, require proof of actual service upon the petitioner.
- (j) The Board of Adjustment shall have the power to:
  - (1) Issue in the name of the City notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing;
  - (2) Take evidence; and
  - (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Manager for action thereon.

At any hearing held pursuant to this Section, testimony taken shall be under oath and recorded. For purposes of this Section, the Board of Adjustment shall be empowered to administer oaths and to promulgate procedural rules for the conduct of the hearing. Any party is entitled to present his/her case or defense by oral or documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. A transcript will be made available to any party to the hearing upon payment of the usual charges thereof.

- (k) Whenever any deadline specified in this Section falls upon a Saturday, Sunday, or a City-recognized holiday, the deadline shall be the next regular City business day.
- (l) Decisions of the Board of Adjustment shall be based on a preponderance of the evidence.
- (m) The date of an order or ruling by the Board of Adjustment under this Section shall be deemed to be the date it is signed by the Board of Adjustment's representative.
- (n) After the conclusion of any hearing provided in this Section, the Board of Adjustment shall make written findings of fact and conclusions of law and shall issue a written decision without undue delay. The Board of Adjustment may sustain the City's imposition of, or may impose upon its own motion, civil penalties for any violation of

this Article in accordance with Section 19.10.23. The Board of Adjustment may modify its order as is appropriate based upon the evidence and arguments presented at the hearing and its action on the petition. Further orders and directives as are necessary and appropriate may be issued by the Board of Adjustment.

- (o) A hearing on a petition submitted to the Board of Adjustment shall exhaust all administrative remedies of the petitioning party/alleged violator.

**Sec. 19.10.022. Nuisance Abatement.**

- (a) Unless specifically stated otherwise, any nuisance as defined within this Article is hereby declared a public nuisance if it exists within the corporate limits of the City or within five thousand (5,000) feet of such limits.
- (b) The Code Enforcement Official may give notice to cease, abate, remove or otherwise remedy a nuisance immediately to:
  - (1) The owner of property upon which a nuisance is located or from which a nuisance originated or is emanating. If the person creating, allowing, or maintaining the nuisance is not the owner of the property, notice shall also be given to such person.
  - (2) Any person creating, allowing, or maintaining a nuisance;
  - (3) Any person with care, custody or control over the premises containing such nuisance.
- (c) The notice must be given:
  - (1) Personally to the owner/person in writing; or
  - (2) By letter addressed to the owner/person at the owner's/person's post office address and sent registered or certified mail (return receipt requested). However, if personal or registered or certified mail service cannot be obtained or the owner's/person's post office address is unknown, notice may be given:
    - (A) By publication in the official newspaper of the City at least twice within ten (10) consecutive days;
    - (B) By posting the notice on or near the front door of each building on the property to which the nuisance relates; or
    - (C) By posting the notice on a placard attached to a stake driven into the ground on the property to which the nuisance relates, if the property contains no buildings.

- (d) The notice may order the owner/person to undertake and implement any appropriate action:
  - (1) To remediate and/or abate any adverse effects of the nuisance upon the MS4, the surface water in the State, the waters of the United States, or any other aspect of the environment; and/or
  - (2) To restore any part of the MS4, the surface water in the State, the waters of the United States, or any other aspect of the environment that has been harmed.
- (e) Such remedial, abatement, and restoration action may include, but not be limited to:
  - (1) Monitoring, assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement, and/or restoration action;
  - (2) Confinement, removal, cleanup, treatment, and disposal of any discharged or released pollution or contamination;
  - (3) Prevention, minimization, and/or mitigation of any damage to the public health, welfare, or the environment that may result from the nuisance; and
  - (4) Restoration or replacement of City property or natural resources damaged by the nuisance.
- (f) The notice may direct that the remediation, abatement, and/or restoration be accomplished on a specified compliance schedule and/or be completed within a specified period of time. An order issued under this Section does not relieve the violator of liability for any violation, including any continuing violation.
- (g) If the owner/person does not comply with the notice within ten (10) days of service, the Code Enforcement Official may enter any public or private property containing the nuisance and do any work necessary to abate the nuisance, except the demolition of buildings, unless otherwise permitted in accordance with other state law or ordinances.
- (h) If the immediate abatement of the nuisance is deemed necessary by the Code Enforcement Official to protect the environment or the public health, safety, or welfare from an imminent and substantial endangerment, the Code Enforcement Official may, without complying with the notice provisions of this Section or without waiting the ten-day period, enter the subject property and do or cause to be done any work necessary to abate the nuisance and remediate and restore the environment.
- (i) The City Manager shall conduct an abatement hearing, if a person required to receive notice, requests, not later than the thirtieth (30<sup>th</sup>) day after the date of the abatement, the person files a written request to the City for the abatement hearing. An abatement hearing must be held not later than the twentieth (20<sup>th</sup>) day after the date of the request

for a hearing is filed. The person may testify, present evidence through witnesses or tangible documents relating to the City's abatement.

- (j) After abating the nuisance, the Code Enforcement Official may inform the owner/person in a notice sent registered or certified mail (return receipt requested) that if the owner/person commits another violation of the same kind or nature that poses a danger to the environment or to the public health and safety on or before the first anniversary date of the original notice, the City may without further notice correct the violation at the owner's expense and assess the expense against the owner's property.
- (k) All costs incurred by the City to abate a nuisance and remediate and restore the environment, including the cost of giving notice as required, shall be initially paid by the City and charged to the owner of the property.
- (l) To obtain a lien against the property, the Code Enforcement Official shall file a statement of expenses with the county clerk for the county in which the property is located. The lien statement shall state the name of the owner, if known, and the legal description of the property. The lien shall be security for the costs incurred and interest accruing at the rate of ten (10) percent on the amount due from the date of payment by the City.
- (m) The lien is inferior only to:
  - (1) Tax liens; and
  - (2) Liens for street improvements.
- (n) A lien may not be filed against real estate protected by the homestead provisions of the Texas Constitution, except as otherwise may be permitted by applicable law.

**Sec. 19.10.023. Civil Penalties.**

- (a) The City may enforce the provisions of this Article pursuant to the applicable provisions of Chapter 54 of the Texas Local Government Code, which provides for the enforcement of municipal ordinances.
- (b) A civil penalty in an amount not to exceed Five Thousand Dollars (\$5,000.00) per violation of this Article may be imposed. Each violation of a particular section of this Article shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this Article.

**Sec. 19.10.024. Criminal Penalties.**

- (a) It shall be an offense and a violation of this Article for any person to intentionally or knowingly violate the provisions of this Article, or fail to comply with any requirement set forth herein, including but not limited to:

- (1) installing or maintaining sampling or monitoring equipment;
  - (2) causing or attempting to cause or create a nuisance as defined herein.
- (b) A conviction for a violation of this Article shall be deemed a misdemeanor. A person convicted of a violation of this Article, shall be fined in an amount not to exceed Two Thousand Dollars (\$2,000.00) per violation, such offense being a violation of the health and safety ordinances of the City. Each violation of a particular section of this Article shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this Article. No notice shall be required to any person prior to issuance of a criminal citation under this Section.

#### **Sec. 19.10.025. Injunction**

Any violation of any provision of this Article that constitutes an immediate danger or threat to the health, safety, and welfare of the public may be enjoined in a suit brought by the City for such purposes.

#### **Sec. 19.10.026. Remedies Nonexclusive**

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

#### **Sec. 19.10.027. Maintenance Agreements**

The City of Seagoville has the authority to enter into interagency or interlocal agreements or other maintenance agreements, as necessary in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)i. This agreement will include maintenance easements to access and inspect stormwater control practices, and perform routine maintenance to ensure proper stormwater control. A legally binding covenant will identify the responsible parties to maintain stormwater control practices.”

**SECTION 2.** The City Council hereby repeals Chapter 23A, Article 23A.02, Municipal Storm Water Utility System, Sections 23A.02.001 through 23A.02.08, in its entirety; and replaces the same with the new Chapter 19, Article 19.09, Municipal Stormwater Utility System, Sections 19.09.001 through 19.09.008, to read as follows:

### **“CHAPTER 19. UTILITIES.**

....

### **ARTICLE 19.09. MUNICIPAL STORMWATER UTILITY SYSTEM**

#### **Sec. 19.09.001 Adoption of Act.**

The Municipal Drainage Utility Systems Act, Chapter 552, Subchapter C, Texas Local Government Code, as amended, ("act") is hereby adopted and shall be fully implemented as provided by the act and by the City Council; and the drainage of the City is hereby found to be a public utility within the meaning of the act.

**Sec. 19.09.002 Drainage Service Provided.**

The City will provide stormwater drainage for all real property within its boundaries upon payment of the determined drainage charges, as defined in the act, and excluding certain exempted real property, and that the fees, assessments, and charges will be based on nondiscriminatory, reasonable and equitable terms.

**Sec. 19.09.003 Billing for Service.**

The City is hereby authorized to bill the drainage charges incurred as a result of the adoption of the act and through the establishment of the municipal stormwater utility system. The stormwater utility fee shall be separately identified from other public utility billings.

**Sec. 19.09.004 Authority to Levy Charges.**

The City may levy a schedule of drainage charges upon satisfaction of the procedural requirements provided in the act and this article.

**Sec. 19.09.005 Exemption Authorized.**

The City is authorized to exempt certain entities or persons from all ordinances, resolutions, and rules which the City may adopt from time to time in connection with the adoption of the act and the establishment of its municipal stormwater utility system.

**Sec. 19.09.006 Fees.**

- (a) The City will establish a drainage utility fee to be set by resolution of the City Council which will be collected through the City's bill for public utilities pursuant to the act other applicable law.
- (b) The fees which will be established will apply to the accounts maintained by the City for utility services.
- (c) All billings, credits, exemptions and other procedures relating to these fees shall be subject to the provisions of the act and other applicable law.

**Sec. 19.09.007 Appeals**

- (a) Billing and payment disputes for administrative issues shall be subject to appeals procedures used by the City for other utility billing disputes.

- (b) Appeals for the following reasons shall be directed to the public works director or his designee for evaluation and determination:
- (1) Exempt property has been assessed a stormwater utility fee;
  - (2) Stormwater utility fee for an individual property is based on an incorrect determination of the property's contribution to the stormwater system, as established in the municipal stormwater utility fee schedule;
  - (3) Stormwater utility fee for an individual property is assessed on more than one utility account; or
  - (4) Stormwater utility fee is assessed to individual property outside the City's jurisdictional area.
- (c) The public works director or his designee shall render a written decision on such appeals within thirty (30) days after receiving a written notice of appeal from the landowner.
- (d) Any landowner who disagrees with the decision of the public works director or his designee may appeal such decision to the City Council. The decision of the City Council shall be final.

**Sec. 19.09.008. Penalties.**

- (a) Failure to pay the stormwater utility fee promptly when due shall subject such user to discontinuance of any utility services provided by the City, in accordance with all applicable laws.
- (b) The City shall not require a deposit for drainage charges as a precondition to accepting surface flow from benefited property into the City's drainage utility system. All real property of the City will be provided with drainage service on payment of drainage charges."

**SECTION 3.** The City Council hereby adopts Article 19.08, "Reserved", to read, in its entirety, as follows:

**"ARTICLE 19.08. RESERVED."**

**SECTION 4. SEVERABILITY CLAUSE.** If any section, subsection, article, paragraph, sentence, clause, phrase or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 5. SAVINGS.** Any and all pending enforcement actions pending for stormwater drainage under the repealed Chapter 23A, Article 23A.01, and Article 23A.02, shall be continued and the above-referenced Articles shall remain in full force and effect for such pending enforcement; thereafter such Article shall have not further effect and are hereby repealed.

**SECTION 6. REPEAL OF CONFLICTING ORDINANCES.** All ordinances, orders and resolutions heretofore passed and adopted by the City Council of the City of Seagoville, Texas are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

**SECTION 7. EFFECTIVE DATE.** The fact that the present ordinances and regulations of the City of Seagoville, Texas, are inadequate to properly safeguard the health, safety, morals, peace and general welfare of the inhabitants of the City of Seagoville, Texas, creates an emergency for the immediate preservation of public business, property, health, safety and general welfare of the public that requires that this Ordinance shall become effective from and after the date of its passage and it is accordingly so ordained.

**PASSED, APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, THIS THE 7<sup>th</sup> DAY OF MARCH, 2016.**

CITY OF SEAGOVILLE, TEXAS



MAYOR

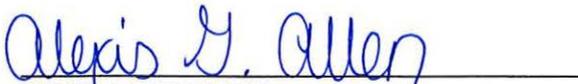
ATTEST:



CITY SECRETARY



APPROVED AS TO FORM:



CITY ATTORNEY