

ORDINANCE NO. 2023-02-02

AN ORDINANCE OF THE CITY OF GREGORY, TEXAS, ADOPTING STORMWATER POLLUTION CONTROL; REGULATING THE DISCHARGE OF POLLUTANTS INTO THE MUNICIPAL SEPARATE STORM WATER SYSTEM (MS4); PROVIDING FOR A PENALTY; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 26 of the Texas Water Code and Chapter 402 of the Clean Water Act provides for Regulation of Stormwater Pollution Control; and

WHEREAS, it is the intent of this Ordinance to maintain and improve the quality of surface water and groundwater within the City of Gregory and the State of Texas; and

WHEREAS, it is the intent of this Ordinance to facilitate compliance with state and federal water quality standards, limitations, and permits by owners and operators of industrial activities and construction sites within the City; and

WHEREAS, it is the intent of this Ordinance to prohibit the discharge of contaminated storm water runoff from industrial, commercial, residential and construction sites into the municipal separate storm sewer system (MS4) and natural waters within the City; and

WHEREAS, it is the intent of this Ordinance to prohibit and focus on eliminating illicit discharges to the MS4, require construction site best management practices for erosion and sediment controls within the MS4, require development requirements to regulate discharges from new development and redevelopment projects within the MS4; and

WHEREAS, it is the intent of this Ordinance to allow for the establishment of programs and procedures to address maintenance and inspection of properties discharging into the MS4 and sampling of such discharges; and

WHEREAS, the City Council finds that stormwater discharge regulations are necessary to protect the public health, safety and general welfare of citizens of the City of Gregory:

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

SECTION 1. Findings.

The findings set out herein are found to be true and correct and are hereby adopted by the City Council and made a part of this Ordinance for all purposes.

SECTION 2. Regulations.

The stormwater regulations more particularly described in **Exhibit "A"**, attached hereto and incorporated herein by reference are adopted as the City's storm water regulations.

SECTION 3: Penalty Provision.

Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding Two Thousand Dollars (\$2,000.00) if the violation relates to the public health, sanitation or dumping of refuse, otherwise the fine shall be a sum not exceeding Five Hundred Dollars (\$500.00). The City retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 4. Cumulative and Savings.

This Ordinance shall be cumulative of all provisions of ordinances of the City of Gregory, Texas, except where the provisions of the ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

SECTION 5: Severability.

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 6: Effective Date.

This Ordinance shall be in full force and effect from and after its final passage and any publication required by law.

PASSED AND APPROVED ON this 6th day of February , 2023.

Jeronimo Garcia, Mayor

ATTEST:

Norma Garcia, City Secretary

EXHIBIT A

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SECTION 1. Intent and Purpose

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

- To regulate pollutants from stormwater discharges into and from the MS4;
- To prohibit illicit connections and discharges to the MS4;
- To control the discharge of spills and prohibit dumping or disposal of materials other than stormwater into the small MS4;
- To enforce compliance with the permittee's ordinances, permits, contracts, or orders;
- To require installation, implementation, and maintenance of control measures;
- 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;
- To establish legal authority to implement inspection and enforcement procedures to ensure compliance with this Ordinance;
- To respond to non-compliance with Best Management Practices (BMPs) required by the small MS4 consistent with its ordinances or other regulatory mechanism(s);
- To assess penalties, including monetary, civil, or criminal penalties; and
- To enter into interagency or interlocal agreements or other maintenance agreements, as necessary.

SECTION 2. Definitions

Applicant - Property owner or agent of a property owner who filed an application for a stormwater authorization under a TPDES general permit or an individual TPDES permit.

Authorized Enforcement Agency - Employees or designees of the City of Gregory, Texas or the Texas Commission on Environmental Quality (TCEQ) having authority to enforce this Ordinance and/or the TPDES regulations.

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.

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 Gregory, Texas or the City Council of the City of Gregory, Texas.

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).

Director - the City Administrator or the administrator’s authorized designee with authority to enforce this Ordinance and/or the TPDES regulations.

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.

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.

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.

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 a TPDES stormwater general permit or a separate authorization and discharges resulting from emergency firefighting activities.

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.

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

Person - Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant - In accordance with the Texas Water Code, §26.001(13) a pollutant includes the following: 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 water in the state.

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

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

Stormwater Management - The use of structural or non-structural control practices/BMPs designed to reduce stormwater pollutant runoff, discharge volumes, peak flow discharge rates, and detrimental changes in stream temperature that affect water quality.

Stormwater Pollution Prevention Plan (SWP3) - A document that describes the Best Management Practices and activities to be implemented by the permit holder to identify sources of pollution or contamination at a site and actions to eliminate or reduce pollutant discharges.

Stormwater Control Practices - Structural or nonstructural measures to minimize stormwater runoff to surface water in the state.

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 (MHWM) 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 Stormwater (TPDES) Discharge Permit - A permit issued by the TCEQ, under the authority of Texas Water Code SECTIONS 26.027 or 26.040 that authorizes the discharge of pollutants into or adjacent water in the state. The TPDES program is administered under the authority delegated pursuant to 33 U.S.C. SECTION 1342(b).

Unauthorized Discharge - Any direct or indirect non-stormwater discharge to the storm drain system except as exempted in SECTION V Prohibition of Illicit Connections of this Ordinance.

SECTION 3. Applicability

Unless exempted, this Ordinance applies to discharges entering the storm drain system within the jurisdictional limits of the City of Gregory.

SECTION 4. Responsibility for Administration

The City of Gregory, Texas (“City”) shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the City may be delegated in writing by the City Administrator to persons or entities acting in the beneficial interest of the City.

Authorized individual(s) shall have the authority to enforce this Ordinance in its entirety and shall be designated as a TPDES Stormwater Manager and/or Inspector. Any person subject to an industrial or construction TPDES stormwater discharge permit or authorization shall comply with all provisions of the permit and may be required by the City of Gregory to have authorization to discharge stormwater into the MS4.

SECTION 5. Prohibition of Illicit Connections and Discharges

Section 5.1 – Prohibition of Illegal Discharges.

- A. The City of Gregory has the authority to prohibit illicit discharges and illicit connections in accordance with TPDES Phase II MS4 Permit TXR040000 Part III SECTION A.3.(a)(2)a.
- B. This Ordinance prohibits unauthorized discharges into the storm drain system. No person shall release discharges into the municipal storm drain containing any pollutants that cause or contribute to a violation of water quality standards, other than stormwater or authorized non-stormwater discharges.

- C. Persons wishing to discharge water other than that listed under this section and not specifically prohibited under this ordinance must file a written request to the Director five (5) days prior to the date of discharge that details the source of the discharge and the volume of the discharge. Written authorization must be obtained from the Director prior to discharge.
- D. No user of the MS4 shall introduce or cause to be introduced into the MS4 any discharge that would result in or contribute to a violation of a water quality standard, the TPDES permit issued to the city, or any state issued discharge permit for discharges from its MS4.
- E. No person shall discharge any substance to the MS4 that is prohibited by the Clean Water Act, the Texas Water Code or the Texas Administrative Code.
- F. No person shall connect to the MS4 a line conveying domestic, commercial or industrial sanitary sewage or wastewater.
- G. No person shall introduce or cause to be introduced in the MS4 any sediment, silt, earth, soil or other material associated with clearing, grading, excavation, filling, hauling, soil boring, core drilling or other construction activities.
- H. No person shall introduce or cause to be introduced to the MS4 any sediment, unused ready mix concrete, mortar, asphalt or other unused construction material or washwater associated with these materials.
- I. No person shall introduce or cause to be introduced to the MS4 any sediment, dust or other solid material from any activity not intended for outside disposal or accumulation.
- J. No person shall use or store any solid waste, regulated waste or hazardous waste or regulated waste in a manner that the material could enter the MS4.
- K. No person shall cause or allow leaves, grass clippings, or other yard debris to enter into the MS4.
- L. No person may discharge or cause to be discharged water containing fertilizers, pesticides or herbicides to the MS4.
- M. No person shall introduce or allow to be introduced into or upon any public or private property that drains or may drain to the MS4 any solid or semi-solid material, such as floatables, or discarded or abandoned objects, articles, and accumulation, on property whether or not it was generated, placed, stored, or located by the user of such materials in such a manner that causes the material to be transported by the wind, rain or other atmospheric conditions into the MS4.

Section 5.2 – Exemptions. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

- A. The following discharges are exempt from discharge prohibitions established by this ordinance:
1. Discharge authorized by, and in full compliance with, an NPDES/TPDES construction or multi-sector industrial permit;
 2. Discharge or flow resulting from fire-fighting activities by the fire department;
 3. A discharge or flow of fire protection water that does not contain oil or hazardous substances;
 4. Unpolluted agricultural stormwater runoff;
 5. Discharges from unpolluted pumped groundwater, rising groundwater or infiltration;
 6. Water line flushing (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life);
 7. Runoff from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;
 8. Discharges from potable water sources that do not violate Texas Surface Water Quality Standards;
 9. Discharges of air conditioning condensation free of oils;
 10. Stormwater runoff from a roof that is not contaminated by any runoff or any other source of pollutant;
 11. Diverted stream flows;
 12. Individual residential vehicle washing; and
 13. Discharges specified in writing by the city as being necessary to protect public health and safety are exempt from discharge prohibitions.

Section 5.3 – Specific Prohibitions.

- A. The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by the general prohibition.
- B. No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the MS4 or conveyances:
1. Any used motor oil, antifreeze or any other motor vehicle fluid;
 2. Any regulated or industrial waste;
 3. Any hazardous waste, including household hazardous waste;
 4. Any domestic sewage or septic tank waste (from holding tanks such as vessels, chemical toilets, campers or trailers), grease trap waste or grit trap waste;
 5. Any wastewater from a commercial carwash facility;
 6. Any vehicle or equipment washwater from a commercial or industrial facility;
 7. Any use of power washing at a commercial facility that generates wastewater containing any soap, detergent, degreaser, solvent, emulsifier, dispersant or any other cleaning substance, or any oils, grime, grit, dirt or substances resulting from the cleaning;
 8. Wastewater from the wash-down or other cleaning of any pavement where a release of regulated material has occurred;

9. Any runoff or wash-down water from any animal pen, kennel or fowl or livestock containment area that exceeds the water quality standard or causes the MS4 to exceed the water quality standards as defined in 30 TAC 307.7;
10. Any discharge from a waterline disinfection by superchlorination;
11. Any substance or material that will damage, block or clog the MS4;
12. 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;
13. Any wastewater from a commercial floor, rug or carpet treatment;
14. Any discharge of solids or waste from soil boring, core drilling, or any other site investigative technique;
15. Any paint or paint related materials.

Section 5.4 – Prohibition of Illicit Connections.

- A. The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
- B. 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.
- C. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

Section 5.5 – Construction activity prohibitions and requirements.

- A. No person shall discharge stormwater associated with a construction activity without first having obtained a TPDES permit to do so, when applicable.
- B. No person shall discharge stormwater associated with a construction activity without first having submitted a copy of the notice of intent (NOI) and/or a construction site notice (CSN) to the city, when applicable.
- C. All persons must submit a copy of the notice of termination (NOT) to the city at the same time the person submits the NOT to the state regulatory agency (TCEQ).
- D. Any person or operator of construction sites shall use best management practices (BMPs) to control and reduce discharge to the city of sediment, silt, earth, soil and other material associated with clearing, grading, excavation, filling, hauling and other construction activities to the maximum extent practicable. Any person or operator shall install BMPs in compliance with the SWP3 and the approved erosion control plan. Any person or operator must maintain BMPs in effective working order in compliance with city construction detail standards and BMP standards supported by the regional council of governments.

- E. Any BMPs capable of installation and/or implementation shall be installed and/or implemented prior to the commencement of construction at the site or in compliance with a schedule for installation and/or implementation in an applicable stormwater pollution prevention plan (SWP3) and approved erosion control plan. Such BMPs must include, but are not limited to, the measures listed in subsections (1) through (7), below:
1. Ensure that existing vegetation is preserved where feasible and disturbed areas of the site are stabilized as soon as practicable where construction activities have temporary or permanently ceased. Stabilization measures may include: Temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees and other appropriate measures.
 2. Prevention of the discharge of building materials, including cement, lime, concrete and mortar, to the MS4 or waters of the United States.
 3. Minimization of the tracking of sediments off-site by vehicles, the generation of dust and the escape of other wind-blown waste from the site.
 4. Providing housekeeping measures to prevent and contain releases of paints, solvents, fuels, septic waste and other hazardous chemicals and pollutants associated with construction activities, and to assure proper cleanup and disposal of any such releases in compliance with state, federal and local requirements.
 5. Implementation of proper waste disposal and waste management techniques, minimizing ground contact with hazardous chemicals and trash.
 6. Proper placement and maintenance of vegetation, erosion and Sediment control measures and other best management practices to ensure good and effective working condition.
 7. Installation of structural BMPs must be completed prior to completion of the construction process to control pollutants in stormwater discharges that will occur after construction operations have been finalized. Structural measures should be placed on upland soils to the degree attainable. Such installed structural measures may include, but are not limited to, the following: Stormwater detention structures (including wet ponds), stormwater retention structures, flow attenuation by use of open vegetative swales and natural depressions, other velocity dissipation devices, and infiltration of runoff on-site, and sequential systems which combine several practices.
- F. Qualified personnel (provided by the operator of the construction site) shall inspect all disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials and staging of construction that are exposed to precipitation, discharge locations, locations where vehicles enter or exit the construction site, and structural controls for evidence of, or potential for, pollutants entering the MS4. All erosion and sediment control measures and other identified BMPs shall be inspected regularly for proper installation according to the SWP3 and erosion control plan.
- G. Inspections must be conducted by qualified personnel within twenty-four (24) hours of the end of a storm event of 0.5 inches or greater or once every seven (7) days regardless of storm events. These inspections are to be conducted as outlined in the SWP3. Inspection reports must be kept with the SWP3.
- H. Any owner of a site of construction activity, whether or not he/she is an operator, is jointly and severally responsible for compliance with the requirements in this article.

- I. Any contractor or subcontractor on a site of construction activity, who is not an owner or operator, but who is responsible under his/her contract or subcontract for implementing BMP control measures, is jointly and severally responsible for any willful or negligent failure on his/her part to adequately implement that control measure.
- J. All persons must comply with the requirements of the TPDES permit or approved erosion control plan issued to such person.
- K. Any person or operator engaging in any land disturbing activity or any construction activities shall prepare an erosion control plan in accordance with the city drainage design manual as currently amended and submit that plan to the city for approval. This shall apply regardless of whether a person or operator is required to obtain a permit from the city or state regulatory agency in order to conduct such land disturbing or construction activity. The person or operator shall also be held liable for violations of this article committed by third parties engaging in activities related to the site.
- L. Any person or operator of sites of construction activity, including clearing, grading, excavation, filling and hauling activities, that result in the disturbance of one (1) or more acres of total land area, or that are a part of a larger common plan of development or sale, where one (1) or more acres of total land area are disturbed, or those who are required to obtain a TPDES permit for stormwater discharges associated with construction activities, shall comply with the measures listed in subsections (1) through (8), below:
 - 1. Any person or operator who intends to obtain coverage for stormwater charges for a large construction project under the TPDES general permit for stormwater discharges shall submit a signed copy of the NOI and CSN to the city at least two (2) days prior to the commencement of construction activities.
 - 2. A site-specific SWP3, prepared by the person or operator with appropriated notices issued as required by the state TPDES general permit, shall be kept on the construction site at all times during the construction and updated as needed to address changing conditions. The SWP3 shall include the city-approved erosion control plan as part thereof.
 - 3. The city may require submission of the SWP3 as currently amended at any time during the course of the construction and the person or operator shall submit the SWP3 to the city within twenty-four (24) hours of the request. The city may notify the person or operator at any time the SWP3 does not meet the requirements of the construction general permit for stormwater discharge from the construction site, or any additional requirements imposed by or under this article, which are not being met by the SWP3. The person or operator shall make the required changes to the SWP3 within seven (7) calendar days of notification and submit to the city that the changes have been made and implemented.
 - 4. Operators of a small construction site must submit a copy of the CSN to the city prior to beginning earth disturbing activities.
 - 5. The CSNs and NOI shall be posted and readily available for viewing by the general public, local, state and federal authorities.

6. Stabilization measures must be initiated as soon as practicable in portions of the construction site where land disturbing activities have "temporarily" ceased. Stabilization measures that provide protective cover must be initiated as soon as practicable where land disturbing activities have "permanently" ceased. These measures must be initiated no more than fourteen (14) days after construction activities have temporarily or permanently ceased (as described in the TPDES permit).
7. Final stabilization must be achieved and all temporary BMPs Removed prior to filing the NOT with the state regulatory agency. The city may withhold occupancy or use permit for any premises constructed on site until such time the city has determined the site has met the final stabilization criteria described in this article.
8. Upon final stabilization of a large construction project, the person or operator (or duly authorized representative thereof) shall submit a NOT to the state regulatory agency and submit a copy of the NOT to the city.

Section 5.6 – Post-construction requirements.

- A. The person or operator must ensure all temporary control measures for erosion control or other BMPs are removed once final stabilization has been achieved.
- B. The person or operator must ensure all long-term operation and maintenance of post construction stormwater runoff control mechanisms, such as detention and retention basins, dry wells and other measures as described in federal regulations.

SECTION 6. Compliance Monitoring

- A. Right of entry; inspection and sampling. Director shall have the right to enter the premises of any person reasonably suspected by the city of discharging pollutants into the municipal separate storm sewer system (MS4) or to waters of the United States to determine if the discharger is complying with all requirements of this article, and with any state or federal discharge permit, limitation or requirement. Dischargers shall allow the city inspectors ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and for the performance of any additional duties. Dischargers shall make available to the city inspector, upon request, any SWPPPs, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, notices of intent, and any other records, reports, and other documents related to compliance with this article and with any state or federal discharge permit.
 1. Where a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the city inspector will be permitted to enter without unreasonable delay for the purposes of performing his/her responsibilities.
 2. The Director shall have the right to set up on the discharger's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the discharger's operations.

3. When pollutants have been discharged the Director may require any discharger to the MS4 or waters of the United States to conduct specified sampling, testing, analysis, and other monitoring of its stormwater discharges, and may specify the frequency and parameters of any such required monitoring.
 4. The Director may require that discharger to install monitoring equipment as necessary at the discharger's expense. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
 5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the discharger at the written or verbal request of the city inspector and shall not be replaced. The costs of clearing such access shall be borne by the discharger.
 6. Unreasonable delays in allowing the Director access to the discharger's premises shall be a violation of this article.
- B. Search warrants. If the Director has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article or any state or federal discharge permit, limitation or requirement, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city inspector may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 7. Response to Releases

The City of Gregory has the authority to respond to and contain other releases. The local jurisdiction shall control the discharge of a spill and prohibit dumping or disposal of material other than stormwater and authorized non-stormwater discharges into the small MS4 in accordance with TPDES Phase II MS4 Permit TXR040000 Part III SECTION A.3.(a)(2)b. Any person in violation of this Ordinance may risk having their discharge authorization to the MS4 suspended. The authorized enforcement agency will notify the violator of the proposed suspension of its authorization. The violator may petition the City of Gregory to reconsider and schedule a hearing.

Section 7.1 – Suspensions for violations.

Any person in violation of this Ordinance risks having their discharge authorization to the MS4 suspended. The authorized enforcement agency will notify the violator of the proposed suspension of its authorization. The violator may petition the City of Gregory to reconsider and schedule a hearing.

Section 7.2 Notice of Violation.

- A. In the event any owner, tenant, agent or person responsible for or claiming or having supervision or control over real property governed by this article fails to comply with the provisions of this article, the city, by and through its code enforcement division or designee shall give notice of the violation to such owner, in compliance with administrative enforcement remedies detailed in Section 12. Such notice shall be given in any one of the following ways:
1. Personally to the owner in writing;
 2. By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or
 3. If personal service cannot be obtained:
 - a. By publication in the city's official newspaper at least once;
 - b. By posting notice on or near the front door of each building on the property to which the violation relates; or
 - c. By posting a notice to a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.
- B. If the city mails a notice to the owner in accordance with this subsection, and the United States Postal Service returns the notice as "refused," "unclaimed," or if the address required by this subsection was used and the notice is returned as "not deliverable as addressed" (or an equivalent marking), the validity of the notice is not affected, and the notice is considered as delivered.
- C. In a notice provided under this section, the city may inform the owner by regular mail and a posting on the property that if the owner commits another violation of the same kind or nature on or before the anniversary of the date of the notice, the city, without further notice, may correct the violation at the owner's expense and assess the expense against the property or issue citations. If a violation covered by a notice under this subsection occurs within one (1) year, and the city has not been informed in writing by the owner of an ownership change, then the city, without notice, may take any action permitted by this ordinance and assess its expenses as provide for in this ordinance.

SECTION 8. Permit Procedures and Requirements

The City of Gregory may enforce compliance with the permittee's ordinances, permits, contracts, or orders in accordance with TPDES Phase II MS4 Permit TXR040000 Part III SECTION A.3.(a)(2)c.

Section 8.1 – Application Review Fees

The land development application fee shall be based on the City's fee schedule a copy attached hereto as Exhibit B or actual costs. Applicant may be responsible to pay fees for any application review or predevelopment conference requiring consultation with City Consultants (such as contracted engineers, planners, attorneys, architects, plan reviewers, inspectors, etc.). To the extent possible, City Staff will provide the Owner/Applicant with an estimate of fees should outside consultation be required.

Section 8.2 – Application Procedure

- A. Applications for land disturbance activity permits must be filed with the Texas Commission on Environmental Quality (TCEQ) any regular business day.
- B. A copy of TCEQ permit application shall be forwarded to the City of Gregory Public Works Department for review.
- C. Permit applications shall include the following: two (2) copies of the stormwater management plan, two (2) copies of the maintenance agreement, and any required review fees.
- D. Within 14 business days of receipt of a complete permit application, the City of Gregory shall inform the applicant whether the application, stormwater management plan, and maintenance agreement are approved or disapproved.
- E. If the permit application, final stormwater management plan, and maintenance agreement are approved by the City of Gregory, all appropriate land disturbance activity permits may be issued.

SECTION 9. Maintenance and Repair of Stormwater Facilities

The City of Gregory 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.

Section 9.1 – 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 Gregory 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 Ordinance. The easement agreement shall be recorded by the Comal County Clerk in the public records for Comal County.

Section 9.2 – 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 Gregory and recorded into the land record prior to final plan approval.

Section 9.3 – 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 Ordinance. 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 Gregory.

Section 9.4 – Failure to Maintain Practices

- A. If the stormwater management facility becomes a danger to public safety or public health, the City of Gregory shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have 7 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 Gregory, after reasonable notice, may perform all necessary work to bring the facility into compliance at the expense of the responsible party. Expenses will include, but are not limited to the following:
1. Fees for service work to abate violation(s);
 2. Fees to file lien;
 3. Fees to release lien;
 4. Postage fees;
 5. Courier fees;
 6. Legal fees; and
 7. Any other fees charged to the city.
- B. To obtain a lien, the City must file a statement of the expenses incurred to correct the condition of the real property with the county clerk of the county in which the property is located. The statement must also state the name of the owner, if known, and the legal description of the property. The lien attaches upon filing of the statement with the county clerk.
- C. The city's lien shall be a prior lien on such property, second only to tax liens and liens for street improvements. The lien amount shall include simple interest, which shall accrue at the rate of ten percent (10%) per annum on the date of the expenses were incurred by the city. The city may bring suit for foreclosure to recover the expenditures and the interest due.

SECTION 10. Requirements for Stormwater Management Plan Approval

The City of Gregory has the authority to receive and collect information (i.e. stormwater pollution prevention plans, inspection reports, etc.) from any person (i.e. operators of regulated construction sites, new or redeveloped land, and industrial and commercial facilities) in accordance with TPDES Phase II MS4 Permit TXR040000 Part III SECTION A.3.(a)(2).e to assess compliance with this permit.

The following are details to be included in the plan:

- A. Contact Information: The name, address, and telephone number of all persons with a legal interest in the property and the tax reference number and parcel number of the property or properties affected.
- B. Map(s) identifying the location of existing and proposed buildings, roads, parking areas, utilities, and structural stormwater management and sediment control facilities. The map(s) must show proposed land use and percentage of surface area to be adapted to various uses. The maps must identify drainage patterns, locations of utilities, roads and easements, the limits of clearing and grading, and a written description of the site plan.
- C. Sufficient engineering analysis to demonstrate the proposed stormwater management measures will control runoff from the site.
- D. An inventory of the natural resources at the site and surrounding area prior to proposed activities and a description of the watershed and its relation to the project site. The description should include the soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
- E. A written description of the maintenance requirements for any proposed stormwater management facility.
- F. An erosion and sediment control plan may be included for all construction activities involving on-site stormwater management practices. An erosion and sediment control plan is a set of plans that indicate the specific measures for the erosion and sediment control on a development site during and after construction.

For any activity on a previously developed site, the applicant must indicate within the stormwater management plan the best management practices it will utilize to control stormwater runoff from the site in accordance with the standards of this Ordinance. If modifications to the stormwater management plan are necessary by the City of Gregory, a final stormwater management plan must be submitted for review and approval by the TCEQ.

SECTION 11. Authority to Enter and Inspect

The City of Gregory has the authority to enter and inspect private property 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.

Access to facilities with industrial and/or construction stormwater discharges:

- A. The Director may enter and inspect facilities, equipment, practices and operations subject to regulation under this Ordinance as often as necessary to determine compliance with this Ordinance. If a discharger's security measures require proper identification and clearance before entry into the premises, the discharger shall make necessary arrangements to allow access to representatives of the authorized enforcement agency.
- B. Facility operators shall allow the Director access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records.
- C. The Director shall have the right to monitor and/or sample the facility's stormwater discharge.
- D. The Director may require the discharger to install and maintain necessary sampling and monitoring equipment.
- E. The operator must remove temporary or permanent obstruction(s) at the written or oral request of the Director to allow safe and easy access to the facility for inspection and/or sampling purposes. The costs of clearing access will be borne by the operator and the obstructions may not be replaced.
- F. Unreasonable delays in allowing the Director access to a permitted facility is a violation of a TPDES stormwater discharge permit and of this Ordinance. A person commits an offense if the authorized enforcement agency is denied reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance.

The applicant shall be required to notify the local jurisdiction prior to commencing construction activity. The local jurisdiction shall regularly inspect the construction of stormwater management system and document in a written report:

- The date and location of the inspection
- Final Assessment- if construction activity complies with the stormwater management plan
- Approved construction specifications
- Identified violations - property owner must be notified in writing of the nature of the violation and the required corrective actions.
- Name and signature of the inspector

SECTION 12. Best Management Practices (BMPs) to Reduce Stormwater Pollutants

The City of Gregory 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 City shall adopt measures to identify BMPs for any activity, operation, or facility which may facilitate pollution of stormwater, the storm drain system, or surface water in the state. 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.

SECTION 13. Enforcement

The City 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 Director finds a person in violation with this Ordinance, 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 Ordinance
- 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.

A violation of any provision of this article, or any order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director. Any person(s) creating a public nuisance shall be subject to the provisions of the City governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

Section 13.1 – Administrative enforcement remedies

- A. Warning notice. When the Director finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the Director 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 Director to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.
- B. Notification of violation. When the Director finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the Director may serve upon that person a written notice of violation. Within ten 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 Director. 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 Director within ten 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 Director to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation.
- C. Consent orders. The Director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any person responsible for noncompliance with any provision in this article or any order issued hereunder. Such documents may include specific action to be taken by the person to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections (e), (f) and (g) this section and shall be judicially enforceable.
- D. Show cause hearing. The Director 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 Director 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 days prior to the hearing. Such notice may be served on any authorized representative of the alleged violator. The hearing shall be conducted pursuant to the rights and procedures specified in this ordinance. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the alleged violator.

- E. Compliance orders. When the Director finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the Director may issue an order to the violator directing that the violator come into compliance within a specified time limit. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the MS4 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.
- F. Remediation, abatement and restoration orders. When the Director finds that a person has violated, or continues to violate, any provision of this article, or any order issued hereunder, and that such violation has adversely affected the MS4, the waters of the United States or any other aspect of the environment, the Director may issue an order to the violator directing him/her to undertake and implement any appropriate action to remediate and/or abate any adverse effects of the violation upon the MS4, the waters of the United States, or any other aspect of the environment, and/or to restore any part of the MS4, the waters of the United States, or any other aspect of the environment that has been harmed. Such remedial, abatement, and restoration action may include, but not be limited to: Monitoring, assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement, and/or restoration action; confinement, removal, cleanup, treatment and disposal of any discharged or released pollution or contamination; prevention, minimization, and/or mitigation of any damage to the public health, welfare, or the environment that may result from the violation; restoration or replacement of city property or natural resources damaged by the violation. The order may direct that the remediation, abatement, and/or restoration be accomplished on a specified compliance schedule and/or be completed within a specified period of time. An order issued under this subsection does not relieve the violator of liability for any violation, including any continuing violation. Issuance of an order under this subsection shall not be a bar against, or a prerequisite for, taking any other action against any responsible party.
- G. Emergency cease and desist orders. When the Director 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 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 Director may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:
1. Immediately comply with all ordinance requirements; and
 2. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

- H. Any person notified of an emergency order directed to it under this subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Director may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Director may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Director 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 Director within two days of 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.
- I. "Red tags". Whenever the Director finds that any operator of a construction site has violated, or continues to violate, any provision of this article, or any order issued thereunder, the Director may order that a "red tag" be issued to the operator, posted at the construction site, and distributed to all city departments and divisions whose decisions affect any activity at the site. Unless express written exception is made by the Director, the "red tag" shall prohibit any further construction activity at the site and shall bar any further inspection or approval by the city associated with a building permit, grading permit, subdivision plat approval, site development plan approval, or any other city approval necessary to commence or continue construction or to assume occupancy at the site. Issuance of a "red tag" order shall not be a bar against, or a prerequisite for, taking any other action against the violator

Section 13.2 – Right to reconsideration, hearing and appeal

- A. Reconsideration and hearing.
1. Any person subject to a compliance order under, a remediation, abatement, or restoration order, an emergency cease and desist order, or a red tag order under this ordinance may petition the Director to reconsider the basis for his/her order within 30 days of the affected person's notice of issuance of such an order.
 2. Failure to submit a timely written petition for reconsideration shall be deemed to be a waiver of any further right to administrative reconsideration or review of the order.
 3. In its petition, the petitioning party must indicate the provisions of the order objected to, the reasons for the objection(s), any facts that are contested, the evidence that supports the petitioner's view of the facts, any alternative terms of an order that the petitioner would accept, and whether the petitioning party requests a hearing on its petition.

4. The effect of any compliance order, remediation, abatement, or restoration order, and any red tag order shall be stayed pending the Director's reconsideration of the petition, and any hearing thereon, unless the Director expressly makes a written determination to the contrary. The effectiveness of any emergency cease and desist order shall not be stayed pending the Director's reconsideration, or any hearing thereon, unless the Director expressly and in writing stays his/her emergency order.
5. Within ten days of the submittal of a petition for reconsideration, the Director shall either: (1) grant the petition and withdraw or modify the order accordingly; (2) deny the petition, without hearing if no material issue of fact is raised; or (3) if a hearing has been requested and a material issue of fact has been raised, set a hearing on the petition.
6. Written notice of any hearing set by the Director shall be served on the petitioning party personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any authorized representative of the petitioning party.
7. The Director may himself/herself conduct the hearing and take evidence, or he/she may designate any employee of the city or any specially-designated attorney or engineer to:
 - a. Issue in the name of the city notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing;
 - b. Take evidence;
 - c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Director for action thereon.
8. At any hearing held pursuant to this subsection, testimony taken shall be under oath and recorded. Any party is entitled to present his/her case or defense by oral or documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. A transcript will be made available to any party to the hearing upon payment of the usual charges thereof.
9. After the Director has reviewed the evidence, he/she shall either: (1) grant the petition; (2) deny the petition; or (3) grant the petition in part and deny it in part. The Director may modify his/her order as is appropriate based upon the evidence and arguments presented at the hearing and his/her action on the petition. Further orders and directives as are necessary and appropriate may be issued.

Section 13.3 – Appeal.

- A. Any person whose petition for reconsideration by the Director has not been granted in its entirety and who remains adversely affected by the Director's order, or who is subject to an order of the Director issued following a show cause hearing, may appeal the action of the Director to the city council by filing a written appeal with the city council within ten days of the person's notice of the Director's adverse action on the petition for reconsideration, or within ten days of the person's notice of the issuance of the order following the show cause hearing, as the case may be.
- B. Failure to submit a timely written appeal to the city council shall be deemed to be a waiver of further administrative review.

- C. In its written appeal to the city council, the appealing party shall indicate the particular provisions of the order objected to, the particular determinations of the Director that are contested, the reasons that the Director's order and/or determinations are contested, and any alternative order that the appealing party would accept.
- D. The effect of the Director's order, as issued or modified, shall not be stayed pending the appeal to the city council, unless the city council expressly so states.
- E. Within 30 days of the submittal of a written appeal to the city council, the city council shall hear and consider the appeal in open meeting. The appellant shall be notified at least three days in advance of the date and time of the city council meeting at which the appeal will be heard and considered.
- F. The appellant shall have the right to public appearance before the city council to present oral and written statements in support of his/her appeal. If the city council wishes to consider testimony of witnesses or other evidence beyond that in the record of any hearing before the Director, the city council may remand the matter to the Director for the taking of additional testimony or other evidence.
- G. Upon consideration of any written and oral statements made to the city council, as well as the record made before the Director, the city council shall act on the appeal by affirming, vacating, or modifying the order of the Director, and/or by remanding the matter to the Director for further action.
- H. Following final action by the city council on the appeal, any adversely affected party may challenge such action by the city council in an appropriate court of competent jurisdiction.

Section 13.4 – Civil Remedies

- A. Whenever it appears that a person has violated, or continues to violate, any provision of this Ordinance that relates to:
 - 1. the preservation of public safety, relating to the materials or methods used in construction of any structure or improvement of real property;
 - 2. the preservation of public health or to the fire safety of a building or other structure or improvement;
 - 3. the establishment of criteria for land subdivision or construction of buildings, including street design;
 - 4. dangerously damaged or deteriorated structures or improvements;
 - 5. conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; or
 - 6. point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into the MS4.

- B. The City may invoke Sections 54.011 - 54.017 of the Texas Local Government Code, as amended, and petition the State district court or the county court at law of Comal County, through the City Attorney, for either the injunctive relief specified within this section or the civil penalties specified in this section as shown below, or both the specified injunctive relief and civil penalties.
1. Pursuant to Section 54.016 of the Texas Local Government Code, as amended, the City may obtain against the owner or the operator of a facility a temporary or permanent injunction, as appropriate, that:
 - a. prohibits any conduct that violates any provision of this Ordinance that relates to any matter specified in this section; or
 - b. compels the specific performance of any action that is necessary for compliance with any provision of this Ordinance that relates to any matter specified in this section.
 2. Pursuant to Section 54.017 of the Texas Local Government Code, as amended, the City may recover a civil penalty of not more than one thousand dollars (\$1,000) per day for each violation of any provision of this Ordinance that relates to any matter specified in this sections, and a civil penalty of not more than five thousand (\$5,000) per day for each violation of any provision of this Ordinance that relates to any matter specified in this ordinance above, if the City proves that:
 - a. the defendant was actually notified of the provisions of the Ordinance; and
 - b. after the defendant received notice of the Ordinance provisions, the defendant committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance.

Section 13.5 – Criminal Penalties

- A. Any person, who has violated any provision of this Ordinance, or any order issued hereunder, shall be strictly liable for such violation regardless of the presence or absence of a culpable mental state, except as expressly provided herein, and shall, upon conviction, be subject to a fine of not more than two thousand dollars (\$2000.00) per violation, per day, or any greater fine authorized by State statute.
- B. Any person who has knowingly made any false statement, representation, or certification in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Ordinance, or any order issued hereunder, or who has falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this Ordinance shall, upon conviction, be subject to a fine of not more than two thousand dollars (\$2000.00) per violation, per day, or any greater fine authorized by State statute.

- C. In determining the amount of any fine imposed hereunder, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the violation, corrective actions by the violator, the compliance history of the violator, the knowledge, intent, negligence, or other state of mind of the violator, and any other factor as justice requires.
- D. Civil Suit Under the Texas Water Code. Whenever it appears that a violation or threat of violation of any provision of Section 26.121 of the Texas Water Code, as amended, or any rule, permit, or order of the Texas Water Commission, has occurred or is occurring within the jurisdiction of the City of Gregory, exclusive of its extraterritorial jurisdiction, the City, in the same manner as the Texas Water Commission, may have a suit instituted in a state district court through its City Attorney for the injunctive relief or civil penalties or both authorized in Subsection (a) of Section 26.123 of the Texas Water Code, as amended, against the person who committed or is committing or threatening to commit the violation. This power is exercised pursuant to Section 26.124 of the Texas Water Code, as amended. In any suit brought by the City under this section, the Texas Water Commission is a necessary and indispensable party.
- E. Remedies Nonexclusive. The remedies provided for in this Ordinance 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.

SECTION 14. Maintenance Agreements

The City of Gregory 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 15. Ultimate Responsibility

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore, this Ordinance does not intend nor imply that compliance by any person will ensure prevention of contamination, pollution, and unauthorized discharge of pollutants.