

## **ARTICLE V: INDUSTRIAL STORM WATER POLLUTION PREVENTION**

### **Sec. 33-350 Purpose:**

The purpose of this ordinance is to control pollution and prevent polluted water into Municipal Separate Storm Sewer System (MS4) and/or water bodies from industrial activities, and to preserve the natural terrain and waterways within the City of Laredo. The provisions in this ordinance are intended to provide a natural environment and to control polluted non-storm water runoff to the MS4 from the industrial facilities, to minimize adverse effects of water pollution and to preserve our drinking water supplies.

### **Sec. 33-351 Scope and Intent:**

This ordinance sets forth guidelines, rules and regulations, standard practices to control polluted storm water runoff due to the industrial and or commercial sources.

### **Sec. 33-352 Definitions:**

For the purpose of this article V only, the following terms, words and phrases, and their derivations, shall have the meanings set forth below, except where the context clearly indicates a different meaning:

**Best management practices (BMP)** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPS also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Businesses** term used to describe commercial entities, construction operators, facilities which have the potential of creating non storm water discharge by natural or artificial means which reside within the confines of the City of Laredo.

**City Engineer** means the person appointed to the position of Director of the Engineering Department by the City Manager of the City of Laredo, or his/her authorized representative.

**City** means the City of Laredo, Texas.

**CWA:** means Clean Water Act (formerly referred to as the Federal water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972)

**Discharge** means any addition or introduction of any pollutant, storm water or any other substance whatsoever into the municipal separate storm sewer system (MS4) or into waters of the United States.

**Discharger** means 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.

**Discharge Limits** means any limit on discharges set by the City, State, or Federal governments. These limits may apply to quantity, rate, quality of discharge, and concentration or any combination thereof. These are also called *effluent limitations*.

**Environmental Protection Agency (EPA)** means the United States 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** means any industrial facility, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

**Harmful/Hazardous Quantity** means the amount of any substance that will cause pollution of water under state and federal law.

**Hazardous Waste** means any material, substance, byproduct, spent, obsolete or used chemical or chemical compound which meets the standards for classification of a hazardous waste or acutely hazardous waste as those terms are defined in 40 CFR Part 261 et seq. and any appendices thereto.

**Industrial Waste** means liquids or other character of wastes resulting from any commercial, manufacturing or industrial operations or process, excluding normal domestic sanitary sewage unless it exceeds three hundred fifty (350) mg/l BOD or three hundred fifty (350)ml/l total suspended solids, which waterborne or liquid wastes enter the sewage system, or any portion thereof, of the city.

**Inlet** means an entrance into a ditch, storm sewer, or other waterway.

**ISCP** Industrial Storm Water Compliance Program

**Municipal Separate Storm Sewer System (MS4)** means the system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, inlets, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage or waste water.

**Non-Compliance** means any infraction of the revised *Code of Civil and Criminal Ordinances* of the City of Laredo, State regulations/laws or Federal regulations/laws.

**Nonpoint Source Pollution** shall mean pollution contained in storm water runoff from ill-defined, diffuse sources.

**Notify** means contacting the appropriate city official in writing in order to request permission to apply or reapply for a specified permit, or to make the official aware of an existing discharge or structure.

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

**Operator** means 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** means the person who owns a facility or part of a facility or his/her assignee.

**Permittee** means the applicant in whose name a valid permit is duly issued pursuant to this ordinance and his/her agents, employees and others acting under his/her supervision or control

**Person or entity** means an individual, firm, co-partnership, corporation, company, association, joint-stock association, including any trustee, receiver, assignee, or similar representative thereof, or government, indian tribe, agency or instrumentality of any government or indian tribe, but such term does not include:

- (1) The United States Postal Service; or

(2) For the purpose of 49 USC 5123 and 5124, any agency or instrumentality of the federal government

**Point source** means any discernible, confined, and discrete conveyance including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

**Pollutant** means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, eat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial municipal, and agricultural wastes discharged into water. The term "pollutant" does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, and farm land.

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

**Pollution Prevention Measures** means prescribed measures to reduce pollutants in discharge through outfalls. These measures include but are not limited to treatment, pretreatment, a best management practice or a method to reduce the pollution of projects classified as light construction and land disturbance activities.

**Qualified personnel** means persons who possess the appropriate competence, skills, and ability (as demonstrated by sufficient education, training, experience, and/or, when applicable, any required certification or licensing) to perform a specific activity in a timely and complete manner consistent with the applicable regulatory requirements and generally-accepted industry standards for such activity.

**Release** means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, infecting, escaping, leaching, dumping, or disposing into the municipal separate storm sewer system (MS4) or the waters of the United States.

**Reportable quantity (RQ)** means for any "hazardous substance," the quantity established and listed in Table 302.4 of 40 CFR Part 302; for any "extremely hazardous substance," the quantity established in 40 CFR Part 355 and listed in Appendix A thereto.

**Sanitary sewer (or sewer)** means the system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the city sewage treatment plant (and to which storm water, surface water, and ground water are not intentionally admitted).

**Sewage (or sanitary sewage)** means the domestic sewage and/or industrial waste that is discharged into the city sanitary sewer system and passes through the sanitary sewer system to the city sewage treatment plant for treatment.

**Site** means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

**Standard Industrial Classification (SIC) code**, sic codes are standard numeric codes assigned to each type of industrial process in the United States by the President's Office of Management and Budget (Office of Management and Budget, 1987).

**State** means the State of Texas.

**Storm water** means storm water runoff, snow melt runoff, and surface runoff and drainage.

**Storm Sewer:** see Municipal Separate Storm Sewer System (MS4)

**Storm Water Pollution Prevention Plan (SWPPP)** -plan required by either the Construction General Permit or the Industrial General Permit and 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. These plans are required by EPA.

**TPDES** Texas Pollution Discharge Elimination System

**TNRCC** Texas Natural Resource Conservation Commission

**Transporter** means any person who transports or plans to transport over public highways of this state more than 500 gallons of used automotive oil annually.

**Uncontaminated** means not containing a harmful quantity of any substance under state and federal law.

**Water Bodies** mean any groundwater, percolating, or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non navigable, 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 inside the jurisdiction of the State.

**Waters of the State (or Water)** means any groundwater, percolating, or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, 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 inside the jurisdiction of the State.

**Water Quality Standard** means the designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by the State to be necessary to protect those uses, as specified in Chapter 307 of Title 31 of the Texas Administrative Code.

**Waters of the United States** means:

- a. waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
- b. all interstate waters, including interstate wetlands
- c. all other waters such as interstate lakes, rivers, streams (including intermittent streams), mud flats, sand flats, wetlands, sloughs, prairie poyholes, wet meadows, playa lakes or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such water:
  - i. Which are or could be used by interstate or foreign travelers for recreational or other purposes,
  - ii. From which fish or shell fish are or could be taken and sold in interstate or foreign commerce,

- iii. Which are used or could be used for industrial purpose by industries in interstate commerce. or
- d. All impoundments of waters otherwise defined as waters of the United States under this definition,
- e. Tributaries of above identified waters.
- f. The territorial sea, and
- g. wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Note: waste treatment system, including treatment ponds or lagoons designed to meet the requirements of CWA are not waters of the United States. This exclusion applies only to manmade bodies of water, which neither were originally created in waters of the united states (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States.

### **Sec. 33-353. General Prohibition.**

a) No person shall introduce or cause to be introduced into the MS4 or water bodies any discharge that causes or contributes to causing the city to violate a water quality standard, the City's NPDES permit, or any state-issued discharge permit for discharges from its MS4 or water bodies.

b) No person shall introduce or cause to be introduced into the MS4 or water bodies any harmful quantity of industrial waste, or other material associated with but not limited to industrial activities required to have an SIC code, in excess of what could be retained on site or captured by employing BMP's to the maximum extent practicable; for the duration of the project.

c) No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise, cause, allow, or permit to be introduced any prohibited substances into the MS4 or water bodies.

d) No person shall introduce or discharge or cause or permit to be discharged into the municipal separate storm sewer system (MS4) or water bodies within the City limits any prohibited discharges as per City ordinance, except as authorized by a valid permit from the TNRCC or the EPA.

### **Sec. 33-354. Facilities required to obtain industrial storm water discharge permits.**

a) All storm water discharges associated with industrial activity that discharge directly to waters of the US or through municipal separate storm sewer systems are required to obtain NPDES permits from EPA/TNRCC and Industrial storm water discharge permit from City of Laredo. EPA policy reads as follows:

activities requiring permits are defined in two ways: by a narrative description or by a *Standard Industrial Classification* (SIC) code. Industrial sites identified by SIC code are required to obtain permit coverage only if the *primary site activity* is within the SIC codes listed. If the listed activity is not the primary site activity, it is considered the *auxiliary activity*, it does not require permit coverage. For categories defined by a narrative description, a permit is required if any of the described activity occurs on site. The City of Laredo Engineering Department has incorporated the EPA SIC codes (see Table 1). Facilities with storm water discharge associated with industrial including: manufacturing /industrial facilities, hazardous waste treatment, storage or disposal facilities, recycling facilities, power plants, mining operations, some oil and gas operations, airports and certain other transportation facilities are required to apply. The Following is a preliminary listing of businesses required to obtain State/Federal Industrial Storm water permit.

**Table 1**

<b>SIC Code</b>	<b>Description</b>
101	Iron Ore mining
102	Copper ore mining
103	Lead and zinc ore mining
104	Gold and silver ore mining
106	Ferro alloy ore mining except vanadium
108	Metal mining services
109	Miscellaneous metal ore mining
12	Coal mining and related facilities
131	Crude petroleum and natural gas extraction
132	Natural gas liquids extraction
138	Oil and gas field services
141	Dimension stone mining
142	Crushed and broken stone mining, including rip-rap
144	Sand and gravel mining
145	Clay, ceramic, and refractory materials
147	Chemical and fertilizer mineral mining
148	Nonmetallic mining mineral mining, except fuels
2421	General sawmills and planing mills
2491	Wood preserving
2411	Log storage and handling
2426	Hardwood dimension and nonferrous flooring mills
2429	Special products sawmills, not elsewhere classified
243	Millwork, veneer, plywood, and structural wood
244	Wood containers
245	Wood buildings, mobile homes
24-93	Reconstituted wood products
24-99	Wood products, not elsewhere classified
261	Pulp mills
262	Paper mills
263	Paperboard mills

SIC Code	Description
281	Industrial inorganic chemicals
282	Plastics materials & synthetic resins, synthetic rubber, cellulose & other materials fibers except glass
284	Soaps, detergents and cleaning preparations, perfumes, cosmetics, and other toilet preparations.
286	Industrial organic chemicals
287	Agricultural chemicals
289	Miscellaneous chemical products
295	Asphalt paving and roofing materials
299	Miscellaneous products of petroleum and coal
311	Leather tanning and finishing
321	Flat glass manufacturing
322	Glass and glass hardware, pressed or blown
324	Hydraulic cement manufacturing
325	Structural clay products manufacturing
326	Pottery and related products manufacturing
327	Concrete, gypsum, and plaster products
3295	Minerals and earth, ground otherwise treated
3297	Non-clay refractories
331	Steel works, blast furnaces, and rolling and finishing mills
332	Iron and steel furnaces
333	Primary smelting and refining of nonferrous metals
334	Secondary smelting and refining of nonferrous metals
335	Rolling, drawing, and extruding of metals
336	Nonferrous foundries (castings)
339	Miscellaneous primary metals products
3441	Fabricated structural metal
373	Ship and boat building or repairing yards
40*	Railroad transportation
41*	Local and highway passenger transportation
42*	Motor freight transportation and warehousing (except 4221, 4222, and 4225)
43*	United States Postal Service
44*	Water transportation
45*	Air transportation facilities
5015	Automobile salvage yards
5093	Scrap recycling facilities
5171*	Petroleum bulk stations and terminals

\* *Businesses with SIC codes 40 through 45 and 5171 are required to obtain storm water permits ONLY if they have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations.*

b) The following facilities that do not have SIC Codes associated with them, but are required to obtain an industrial storm water discharge permit.

1. Hazardous waste treatment, storage, or disposal facilities
2. Landfills, land application sites, and open dumps that receive or have received industrial waste.

3. Stream electric power generating facilities
4. Sewage treatment works publicly owned (POTW) or privately-owned
5. Construction operators (contractors and land owners) for clearing, grading, and excavation of sites over five acres in size

c) The following businesses subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (These businesses may be included in another section of this list) are required to obtain permit

### **Facility Description**

Dairy products processing	Cement manufacturing
Grain mills	Feedlots
Canned and preserved fruits and vegetable processing	Organic and inorganic chemical manufacturing
Canned and preserved seafood processing	Soap and detergent manufacturing
Beet, crystalline, and liquid cane sugar refining	Fertilizer manufacturing
Textile mills	Petroleum manufacturing
Pulp, paper, and paperboard	Iron and steel manufacturing
Builder's paper and paperboard	Meat products processing
Pharmaceutical manufacturing	Metal finishing
Pre mining and dressing	Coal mining
Paint or ink formulating	Mineral mining and processing
Carbon black manufacturing	Paving and roofing materials
Battery manufacturing	Pesticide chemicals manufacturing
Phosphate manufacturing	Plastic molding and forming
Ferro alloy manufacturing	Nonferrous metal manufacturing
Glass manufacturing	Steam electric power
Metal molding and forming	Leather tanning and finishing
Coil coating	Asbestos manufacturing
Aluminum forming	Timber products processing
Electrical/electronic components manufacturing	Porcelain enameling
Copper forming	Nonferrous metal forming and powders

### **Sec. 33-355 General Rules for Storm Water Discharges associated with industrial activity.**

a) All aforementioned industrial facilities shall apply for storm water permits from the TNRCC and/or the EPA.

b) Any industrial facility that has not acquired all required industrial storm water permits from TNRCC and/or EPA shall be in violation of this ordinance.

c) Any industrial facility that does not meet the requirements of their storm water permits issued by TNRCC/EPA shall be in violation of this ordinance.

d) The City will only issue permits to facilities that have obtained industrial storm water permits from the TNRCC and/or the EPA.

**Sec. 33-356 Facilities that are not required to obtain an industrial storm water discharge permit.**

Businesses with the following SIC codes are not required to apply for a storm water permit if ALL of the following are protected (i.e., indoors or covered) from storm water exposure:

- a) raw materials, intermediate or finished products or byproducts, waste materials
- b) industrial machinery, storage, loading/unloading, or transportation of any of the above

<b>SIC Code</b>	<b>Description</b>
20	Food and kindred products
21	Tobacco products processing
22	Textile mill products processing
23	Apparel and other finished products made from fabrics and similar materials
24	Wood kitchen cabinets processing
25	Wood kitchen cabinets manufacturing
265	Paperboard containers and boxed manufacturing
267	Converted paper and paperboard products processing, except containers and boxes
27	Printing and publishing
283	Drugs
285	Paints, varnishes, lacquers, enamels, and allied products manufacturing
30	Rubber and miscellaneous plastic products manufacturing
31	Leather and leather products (except 311)
323	Glass products made purchased glass
34	Fabricated metal products (except 3441)
35	Industrial or commercial machinery and equipment manufacturing
36	Electronic and other electric equipment manufacturing
37	Transportation equipment (except 373)

38	Measuring, analyzing, and controlling interments, and photographic and optical goods manufacturing
39	Miscellaneous manufacturing
4221	Farm product storage
4222	Refrigerated storage
4225	General warehouse and storage

**Sec. 33-357. Right of Entry, Inspection and Sampling.**

The City Engineer's office shall have the right to enter the premises of any person discharging storm water to the municipal separate storm sewer system (MS4) and/or to waters of the United States to determine if the discharger is complying with all requirements of this Ordinance, and with any state or federal discharge permit, limitation, or requirement. Dischargers shall allow the City Engineer ready access to all parts of the premises for the purposes of inspection, sampling, records examination, photo recording and copying, and for the performance of any additional duties. Dischargers shall make available to the City Engineer, upon request, any pollution control measures or modifications thereto, self-inspection reports, monitoring records, compliance evaluations, Notices of Intent, and any other records, reports, or documents related to compliance with this Ordinance and with any state or federal discharge permit.

(a) 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 Engineer or his authorized representatives will be permitted to enter without delay for the purposes of performing his/her responsibilities.

(b) The City Engineer or his authorized representatives 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.

(c) The City Engineer or his authorized representatives may require any discharger to the MS4 and/or waters of the United States to conduct specified sampling, testing, analysis, and other monitoring of its storm water discharges, and may specify the frequency and parameters of any such required monitoring.

(d) The City Engineer or his/her authorized representatives may require the 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 storm water flow, waste water and quality shall be calibrated to ensure their accuracy.

(e) 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 Engineer or his authorized representatives and shall not be replaced. The costs of clearing such access shall be borne by the discharger.

(f) Unreasonable delays in allowing the City Engineer or his authorized representatives access to the discharger's premises shall be a violation of this Ordinance.

**Sec. 33-358-33.370**

Reserved.

**Sec. 33-371 Violations and Noncompliance.**

- a. A penalty is hereby established whereby any person who shall violate any provision of this ordinance shall be deemed to be guilty of a misdemeanor and shall upon conviction be fined a minimum amount of not less than five hundred dollars (\$500.00) per violation and a maximum amount of not more than two thousand dollars (\$2000.00) per violation.
- b. Each day of violation and each violation of a particular section of this ordinance shall constitute a separable offense for purposes of the City's enforcement of this ordinance.
- c. A culpable mental state is not required to prove an offense under this ordinance. Upon the written certification by the City Engineer of the violation of any section of this Ordinance, the City Attorney is authorized to petition any court of competent jurisdiction for an injunction to enjoin the continuance of such violation. This remedy shall be cumulative of and to all other enforcement powers granted to the City by the terms of its Charter or any ordinance, or by the laws of the State. No provision of this ordinance is intended, nor shall any part or portion hereof be construed so as to conflict with the Texas Water Code, state regulations, or federal regulations. If any provision of this ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision. If compliance is not achieved to the City's satisfaction, the City may, at its discretion, report the noncompliance to the E.P.A., the T.N.R.C.C., the U.S.G.S., the U.S. Wildlife and Fisheries, the U.S. Army Corps of Engineers, or any other state or federal agency for further action.

### **Sec. 33-372 Protocol for the Issuance of Noncompliance Notifications**

1. Noncompliance Flag and Stop Work Orders: If the City Engineer determines that activities are being carried out in violation of this chapter, a notification of non-compliance shall be issued. In addition to the notification, if the violation continues beyond five (5) days, a "Noncompliance Flag" will be posted at the site. Finally, if the violation continues after the five (5) days after the "Noncompliance Flag" is posted, the City Engineer may stop all work until corrective measures have been completed. The site shall be posted with a "stop work" notice. No other permits may be issued by the City until corrections have been made to the satisfaction of the City Engineer. It is also against this ordinance either to move or interfere with "Non-compliance Flag" and/or stop work orders, and shall be considered as an additional violation(s) of this Ordinance.

2. Notification of Violation: Any person found to be in violation of the provisions of this ordinance shall be required to correct the problem upon written notification from the City Engineer. Such written notification may require that certain conditions be adhered to in the correction of the problem. These may include, but are not limited to, the following:

- a. use of specific pollution prevention measures and techniques;
- b. use of pre treatment procedures pollution prevention plans;
- c. modification of existing plan;
- d. completion of work within a specified time period; and
- e. submission of pollution prevention plan or any other of its type.

3. Appeals: Any person denied a discharge to MS4 shall have the right to appeal such to the Board of Adjustment or other board established by the City within forty-five (45) days of the date of such denial.

### **Sec. 33-373. Citizen participation.**

Citizen reports of violations: All citizens are encouraged to report to the City Engineer's office or the hot line 956-727-7794, any spills, releases, illicit connections, or any other instances of anyone discharging pollutants into storm sewer system or waters of the State or waters of the United States and any other violation of this Ordinance which they become aware.

