

**ORDINANCE NO. 2009-09**

**AN ORDINANCE OF THE CITY OF OLMOS PARK, TEXAS ESTABLISHING ILLICIT DISCHARGE RESTRICTIONS PURSUANT TO U.S. ENVIRONMENTAL PROTECTION AGENCY GUIDELINES AND ADOPTED TEXAS COMMISSION ON ENVIRONMENTAL QUALITY STANDARDS, AND PROVIDING A PENALTY UPON CONVICTION OF A VIOLATION OF THIS SECTION IN AN AMOUNT NOT TO EXCEED \$500.00 PER VIOLATION PER DAY UNLESS THE VIOLATOR RECEIVES ACTUAL NOTICE OF THE PROVISIONS OF THIS ORDINANCE IN WHICH CASE THE PENALTY UPON CONVICTION IS NOT TO EXCEED \$1,000 PER VIOLATION PER DAY OR NOT TO EXCEED \$5,000 PER VIOLATION PER DAY FOR CERTAIN VIOLATIONS RELATIVE TO POINT SOURCE EFFLUENT LIMITATIONS OR THE DISCHARGE OF A POLLUTANT (OTHER THAN FROM A NON-POINT SOURCE) INTO A SEWER SYSTEM, INCLUDING A SANITARY OR STORM WATER SEWER SYSTEM, OWNED OR CONTROLLED BY THE CITY, AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the Environmental Protection Agency of the United States (the "E.P.A.") mandated the regulation of stormwater discharge under the Clean Water Act (the "Act," 40 CFR 122.34), and,

**WHEREAS**, the E.P.A. authorizes the Texas Commission on Environmental Quality ("T.C.E.Q.") to adopt rules to carry out its powers and duties under the Act (Tex. Admin. Code, Title 30, Chapt. 281.25(b)(5), and,

**WHEREAS**, the Act, at the discretion of the T.C.E.Q., further requires cities and towns in the State of Texas to implement and enforce water management practices to ensure that stormwater pollution is minimized to the extent required by Federal Law through, inter alia, the Act, and,

**WHEREAS**, the City of Olmos Park, Texas has a duty under the United States Constitution, the Texas Government Code, the Texas Local Government Code, the Texas Administrative Code, the Texas Water Code and/or the Texas Health and Safety Code to establish methods for controlling non-stormwater Discharges to the storm drainage system to the maximum extent practicable as required by federal and state law,

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

# **ILLICIT DISCHARGE ORDINANCE**

## **ARTICLE I. GENERAL PROVISIONS**

### **A. Purpose/Intent**

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Olmos Park, Texas, as well as comply with the regulations mandated by both the United States Environmental Protection Agency (“E.P.A.”) and the Texas Commission on Environmental Quality (“T.C.E.Q.”), through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (“MS4”) in order to comply with requirements of the National Pollutant Discharge Elimination System (“NPDES”) permit process. The objectives of this ordinance are:

1. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user.
2. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.

### **B. Abbreviations**

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

- BMP - Best Management Practices
- BTEX - Benzene, Toluene, Ethyl benzene, and Xylene
- HHW - Hazardous Household Waste
- Mg/l - Milligrams per liter
- MS4 - Municipal Separate Storm Sewer System
- NPDES- National Pollutant Discharge Elimination System
- ppb - Parts per billion
- PST - Petroleum Storage Tank SWPPP- Storm Water Pollution Prevention Plan
- TPH - Total Petroleum Hydrocarbon

## C. Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated.

### 1. Agricultural Storm Water Runoff.

Any storm water runoff from orchards, cultivated crops, pastures, range lands, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24.

### 2. Best Management Practices (BMP).

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 plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

### 3. City.

The City of Olmos Park, Texas.

### 4. Commercial.

Pertaining to any business, trade, industry, or other activity engaged in for profit.

### 5. City Manager.

The person appointed to the position of City Manager by the City Council of the City of Olmos Park, Texas or his/her duly authorized representative.

### 6. Discharge.

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.

### 7. Discharger.

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

### 8. Domestic Sewage.

Human excrement, gray water, other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings, businesses, office buildings, factories, and institutions, that is free from industrial waste.

### 9. Extremely Hazardous Substance.

Any substance listed in the Appendices to 40 CFR Part 355, Emergency Planning and Notification.

### 10. Facility.

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

11. Fire Department.

The Fire Department of the City of Olmos Park, Texas or any duly authorized representative thereof.

12. Garbage.

Putrescible animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.

13. Gray Water.

Liquid from home clothes washing, bathing, showers, dishwashing, or food preparation.

14. Hazardous Household Waste (HHW).

Any material generated in a household (including, without limitation, single and multiple residences, picnic grounds, and day use recreational areas) by a consumer which, except for the exclusion provided in 40 CFR § 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.

15. Hazardous Substance.

Any substance listed in Table 302.4 of 40 CFR Part 302.

16. Hazardous Waste.

Any substance identified or listed as a hazardous waste by the E.P.A. pursuant to 40 CFR Part 261.

17. Industrial Waste.

Any liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade, or business.

18. Motor Vehicle Fluids.

Any vehicle crankcase oil, antifreeze, transmission fluid, brake fluid differential lubricant, gasoline, diesel fuel, gasoline/alcohol blend, or any other fluid used in a motor vehicle.

19. Municipal Separate Storm Sewer System (MS4).

The system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, 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.

20. NPDES Permit.

A permit issued by EPA (or by the State, most notably by but not limited to the T.C.E.Q. under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

21. Notice of Intent (NOI).

The Notice of Intent that is required by either the industrial General Permit or the Construction General Permit.

22. Oil.

Any kind of oil in any form, including, but not limited to, petroleum, fuel oil, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste.

23. Person.

Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

24. Petroleum Storage Tank (PST).

Any one or combination of aboveground or underground storage tanks that contain petroleum products and any connecting underground pipes.

25. Pollutant.

Dredged spoil; solid waste; incinerator residue; sewage; garbage; sewage sludge; munitions; chemical waste; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; or industrial, municipal, and agricultural waste 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.

26. Rubbish.

Nonputrescible solid waste, excluding ashes, that consist of (A) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (B) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

27. Sanitary Sewer (or Sewer).

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 groundwater are not intentionally admitted).

28. Septic Tank Waste.

Any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

29. Service Station.

Any retail establishment engaged in the business of selling fuel for motor vehicles that is dispensed from stationary storage tanks.

30. Sewage (or Sanitary Sewage).

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.

31. Solid Waste.

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

32. State.

The State of Texas.

33. Storm Water.

Storm water runoff, surface runoff and drainage, and snow and/or ice melt runoff.

34. Storm Water Pollution Prevention Plan (SWPPP).

A 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 discharge associated with construction or industrial activity.

35. Used Oil (or Used Motor Oil).

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

36. Water Quality Standard.

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.

37. Waters of the United States.

All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of “waters of the United States” at 40 CFR § 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the federal Clean Water Act.

38. Yard Waste.

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

## **ARTICLE II. GENERAL PROHIBITION**

A. No person shall introduce or cause to be introduced into the municipal separate storm sewer system (MS4) any discharge that is not composed entirely of storm water and other allowable discharges.

B. Allowable discharges include:

1. A discharge authorized by, and in full compliance with, an TPDES permit (other than the TPDES permit for discharges from the MS4);
2. A discharge or flow resulting from fire fighting by the Fire Department;
3. A discharge or flow of fire protection water that does not contain oil or hazardous substances.
4. Agricultural storm water runoff;
5. A discharge or flow from water line flushing, but not including a discharge from water line disinfection by superchlorination or other means unless the total residual chlorine (TRC) has been reduced to less than 1.0 mg/l and it contains no harmful quantity of chlorine or any other chemical used in line disinfection;
6. A discharge or flow from lawn watering, or landscape irrigation, or other irrigation water;
7. A discharge or flow from a diverted stream or natural spring;
8. A discharge or flow from uncontaminated pumped groundwater or rising groundwater;
9. Uncontaminated groundwater infiltration (as defined as 40 C.F.R. § 35.2005(20)) to the MS4;
10. Uncontaminated discharge or flow from a foundation drain, crawl space pump, footing drain, or sump pump;
11. A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
12. A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
13. A discharge or flow from individual residential car washing;
14. A discharge or flow from a riparian habitat or wetland;
15. A discharge or flow from water used in street washing that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;
16. Storm water runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber or filter or any other source of pollutant;
17. Swimming pool water that has been dechlorinated so that total residual chlorine (TRC) is less than 1.0 mg/l and that contains no harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning.

C. No affirmative defense shall be available under Subsection B of this section if the discharge or flow in question has been determined by the City Manager to be a source of a pollutant or pollutants to the waters of the United States or to the MS4, written notice of such determination has been provided to the discharger, and the discharge has occurred more than 15 days beyond such notice.

### **ARTICLE III. SPECIFIC PROHIBITIONS AND REQUIREMENTS**

A. The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by the general prohibition in Section II.

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

C. 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:

1. Any used motor oil, antifreeze, or any other motor vehicle fluid;
2. Any industrial waste;
3. Any hazardous waste, including hazardous household waste;
4. Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
5. Any garbage, rubbish, or yard waste;
6. Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus, or heavy equipment, by a business or public entity that operates more than two such vehicles;
7. Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
8. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
9. Any wastewater from commercial floor, rug, or carpet cleaning;
10. Any wastewater from the wash down or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the wash down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;

11. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blow down from a boiler;
12. Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydro-mulch material, or material from the cleaning of vehicles or equipment containing, or used in transporting or applying, such material;
13. Any runoff or wash down water from any animal pen, kennel, or fowl or livestock containment area;
14. Any filter backwash from a swimming pool, fountain, or spa;
15. Any swimming pool water containing total residual chlorine (TRC) of 1.0 mg/l or more or containing any harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
16. Any discharge from water line disinfection by superchlorination or other means if the total residual chlorine (TRC) is at 1.0 mg/l or more or if it contains any harmful quantity of chlorine or any other chemical used in line disinfection;
17. Any fire protection water containing oil or hazardous substances or materials unless treatment adequate to remove pollutants occurs prior to discharge. (This prohibition does not apply to discharges or flow from fire fighting by the Fire Department.);
18. Any water from a water curtain in a spray room used for painting vehicles or equipment;
19. Any contaminated runoff from a vehicle salvage yard;
20. Any substance or material that will damage, block, or clog the MS4;
21. Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge satisfies all of the following criteria:
  - Compliance with all state and federal standards and requirements;
  - No discharge containing a harmful quantity of any pollutant; and
  - No discharge containing more than 50 parts per billion of benzene; 500 parts per billion combined total quantities of benzene, toluene, ethyl benzene, and xylene (BTEX); or 15 mg/l of total petroleum hydrocarbons (TPH).
22. Any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities, or associated with land filling or other placement or disposal of soil, rock, or other earth materials, in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable.
23. Any sanitary sewage, domestic or industrial.

24. Any pavement wash water from a service station to be discharged into the MS4 unless such wash water has passed through a properly functioning and maintained, grease, oil, and sand interceptor before discharge into the MS4.

25. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4, or allow such a connection to continue.

#### D. Used Oil Regulation

1. No person shall discharge used oil into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater, or water course; knowingly mix or commingle used oil with solid waste that is to be disposed of in a landfill or knowingly directly dispose of used oil on land or in a landfill; or apply used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil into the environment.

### **ARTICLE IV. COMPLIANCE MONITORING**

#### A. Right of Entry: Inspection and Sampling

The City Manager shall have the right to enter the premises of any person or entity discharging storm water to 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 Ordinance. Dischargers shall allow the City Manager 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 Manager, upon request, any SWPPs, 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 Ordinance 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 Manager will be permitted to enter without delay for the purposes of performing his/her responsibilities.

2. The City Manager 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. The City Manager may require any discharger to the MS4 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.

4. The City Manager 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 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 Manager and shall not be replaced. The costs of clearing such access shall be borne by the discharger.

6. Delays in excess of 12 hours in allowing the City Manager access to the discharger's premises shall be a violation of this Ordinance.

#### B. Illicit Discharge Detection Plan

The City will inspect the municipal separate storm sewer system (MS4) for illicit discharges. The inspections shall be based on a plan providing a map and schedule for inspections, listing appropriate techniques for detection, and including forms to be used to document inspection results.

#### C. Search Warrants

If the City Manager has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, 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 Ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City Manager may seek issuance of a search warrant from any court of competent jurisdiction.

### **ARTICLE V. ENFORCEMENT.**

#### Notice of Violation.

Whenever the City Manager finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the City Manager may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
5. Payment of a fine to cover administrative and remediation costs; and/or
6. The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

#### **ARTICLE VI. ENFORCEMENT MEASURES AFTER APPEAL.**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then representatives of the City shall be entitled (but are not obligated) to enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City, the City Manager, the City Engineer and/or any contractor designated by the City, the City Manager and/or the City Engineer to enter upon the premises for the purposes set forth above.

#### **ARTICLE VII. COST OF ABATEMENT OF THE VIOLATION.**

Within ten days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid within a timely manner as determined by the decision of the City Manager, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. The City may file an affidavit asserting said lien in the Real Property or Official Records of Bexar County. Any person violating any of the provisions of this article shall become liable to the City by reason of such violation. The assessment shall be paid within 60 days of the date of notification unless the party liable makes written arrangements with the City, binding on the party liable, on terms acceptable to the City Manager.

#### **ARTICLE VIII. INJUNCTIVE RELIEF.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the City may petition for a temporary restraining order, a temporary injunction, and/or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

#### **ARTICLE IX. VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

## **ARTICLE X. CIVIL PENALTIES.**

Any person that has violated or continues to violate this ordinance shall be liable to prosecution to the fullest extent of the law, and shall be subject to a civil penalty in an amount not to exceed \$500 dollars per violation per day. Each day that a violation occurs shall be a separate violation and/or imprisonment for a period of time not to exceed 30 days. The City may recover all attorneys' fees, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

If the City proves that the person that has violated or continues to violate this ordinance (a) was actually notified of the provisions of this ordinance and (b) after receiving notice of the provisions of this ordinance committed acts in violation of this ordinance or failed to take action necessary for compliance with this ordinance, then such person shall be liable to prosecution to the fullest extent of the law and shall be subject to a civil penalty not to exceed \$1,000 per day for a violation of this ordinance except that a civil penalty may not exceed \$5,000 per day for a violation of this ordinance relating to point source effluent limitations or the discharge of a pollutant (other than from a non-point source) into a sewer system, including a sanitary or storm water sewer system, owned or controlled by the City. Each day that a violation occurs shall be a separate offense.

## **ARTICLE XI. REMEDIES NOT EXCLUSIVE.**

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City to seek cumulative remedies.

## **ARTICLE XII. ADOPTION OF ORDINANCE.**

This ordinance shall be in full force and effect 10 days after publication of this ordinance or the caption of this ordinance in the official newspaper of the City. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

PASSED and ADOPTED this the 17th day of December, 2009.

Ronald G. Tefeller  
Mayor

ATTEST:

Celia DeLeon  
City Secretary