PUBLIC SERVICE BOARD MEETING
AGENDA ITEM
REGULAR MEETING

Wednesday, February 14, 2024

SUBJECT

Consider and adopt the Stormwater Annual Budget for Fiscal Year 2024-2025

BACKGROUND

Review and adopt the Stormwater Annual Budget for Fiscal Year 2024-2025.

STRATEGIC OBJECTIVES SUPPORTED

Strengthen Financial Viability

EVALUATION PROCESS

A budget workshop was held on November 29, 2023, to review the Stormwater Operating and Capital Improvement budget with a 13 percent ($0.76) proposed fee adjustment. The fee increase requires revisions to Rules and Regulations No. 3. In addition, there are proposed revisions to Rules and Regulations No. 2 for clarity of sections and definitions.

FINANCIAL IMPLICATIONS

The budget approval will set the fees for the Stormwater Utility services and set forth the Operating and Capital budgets.

PROPOSED ACTION REQUESTED

Consider and adopt the Stormwater Annual Budget for Fiscal Year 2024-2025 and adoption of Resolutions amending Rules and Regulations No. 2 for clarity and proposed changes and Rules and Regulations No. 3 with proposed fee adjustments.

SUPPORTING DOCUMENTATION PROVIDED

- Rules and Regulations No. 2 with Proposed Changes
- Rules and Regulations No. 3 with Proposed Changes

RULES AND REGULATIONS NO. 2

RULES AND REGULATIONS GOVERNING THE FURNISHING OF STORMWATER SERVICE WITHIN THE CORPORATE LIMITS OF THE CITY OF EL PASO BY THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD PURSUANT TO CHAPTER 552 OF THE TEXAS LOCAL GOVERNMENT CODE, AS AMENDED (THE ACT), AUTHORIZING THE CITY OF EL PASO, TEXAS TO ESTABLISH A MUNICIPAL DRAINAGE UTILITY SYSTEM, AND ORDINANCE 016668, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON JUNE 19, 2007, DECLARING THE DRAINAGE SYSTEM OF THE CITY TO BE A PUBLIC UTILITY AND AUTHORIZING THE PUBLIC SERVICE BOARD TO HAVE COMPLETE AUTHORITY AND CONTROL OF THE MANAGEMENT AND OPERATION OF THE SYSTEM ON BEHALF OF THE CITY OF EL PASO; THEREFORE BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING RULES FOR THE FURNISHING OF STORMWATER SERVICE WITHIN THE CITY OF EL PASO ARE HEREBY ESTABLISHED.

SECTION I GENERAL PROVISIONS

A. TABLE OF CONTENTS

The following headings or captions are adopted as the Table of Contents for Public Service Board Rules and Regulations No. 2.

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B. ABBREVIATIONS AND DEFINITIONS

The following abbreviations, when used in this rule, shall have the designated meanings as follows:

BMP –	Best Management Practice
CFR –	Code of Federal Regulations
EPA –	Environmental Protection Agency
HHW –	Household Hazardous Waste
MS4 –	Municipal Separate Storm Sewer System
NOC –	Notice of Change
NOI –	Notice of Intent
NONC	Notice of Non Compliance
NOT –	Notice of Termination
NOV-	Notice of Violation
NPDES –	National Pollutant Discharge Elimination System
PMF –	Probable Maximum Flood
PMP –	Probable Maximum Precipitation
PSB –	Public Service Board
SWP3 –	Stormwater Pollution Prevention Plan
TCEQ –	Texas Commission on Environmental Quality
TPDES –	Texas Pollutant Discharge Elimination System

Unless the context specifically indicates otherwise, the following terms and phrases, as used in these Rules and Regulations No. 2, shall have the following meanings:

Agricultural Stormwater Runoff:

Any Stormwater 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.

Best Management Practices (BMPs):

Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices implemented to control, prevent or reduce the Discharge of Pollutants. 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.

Benefited Property:

An Improved Lot or Tract to which Drainage service is made available under the establishing Drainage Ordinance and in accordance with

applicable Rules and Regulations.

City:

The City of El Paso, Texas, a Texas Home Rule Municipality.

Commencement of Construction:

Exposure of soils from activities such as clearing, grading or excavating activities or other construction activities.

Compacted Soil:

Any amount of compaction above the soil's natural state caused by any means. This includes but is not limited to soil that has been compressed by vehicles that have driven over it.

Detention Pond:

An excavated area of land that protects against flooding by storing water for a pre-determined period of time. Detention Ponds have an outlet structure.

Discharge:

Any addition or introduction of any Pollutant, Stormwater, or any other liquid, gas or solid substance whatsoever into the MS4 or into Waters of the United States.

Discharger:

Any Person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any Operator of a construction site or industrial Facility.

Domestic Sewage:

Human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other wastewater from household drains, and waterborne waste normally Discharged from the sanitary conveniences free from Industrial Waste.

Drainage:

The process by which excess water or liquid is discharged from an area.

Drainage System:

Dams, ~~C~~catch basins, channels, conduits, creeks, culverts, Detention Ponds, Retention Ponds, ditches, draws, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the water away, collect, store, or treat the water, or divert the water into natural or artificial watercourses.

Drainage Ordinance:

Ordinance No. 016668 passed and approved by the City Council of the City of El Paso, Texas on June 19, 2007, authorizing the Public Service Board to have complete authority and control of the management and operation of the Stormwater System.

Environmental Protection Agency (EPA):

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.

EPWater:

See definition of Utility below.

EPWU:

See definition of Utility below.

Extremely Hazardous Substance:

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

Facility/Facilities:

The property, either real, personal, or mixed, that is used in providing Drainage and included in the System.

Fertilizer:

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

Final Stabilization:

The status when all soil disturbing activities at a Site have been completed, and a uniform perennial vegetative cover with a density of seventy percent of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

Fire Department:

The fire department of the City or any duly authorized representative

thereof.

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.

General Permit:

A permit issued to authorize Discharge into or adjacent to water in the state for one or more categories of waste Discharge within a geographical area of the state or the entire state as provided by Section 26.040 of the Texas Water Code, or into Ww~~w~~aters of the United States according to Section 402 of the Federal Water Pollution Control Act Amendments.

Harmful Quantity:

The Discharges of substances in such quantities that EPWater has determined may be harmful to the public health or the environment including, without limitation, substances that are of sufficient quantity to:

a. Violate applicable water quality standards;
b. Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines;
c. Cause any damage to the MS4; or
d. Interfere with the operation of the MS4.

Household Hazardous Waste (HHW):

Any material generated in a household (including single and multiple residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreational areas) by a consumer which, except for the exclusion provided in 40 CFR Section 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261, as amended from time to time.

Hazardous Substance:

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

Hazardous Waste:

Any substance identified or listed as a hazardous waste by EPA in 40 CFR Part 261.

Herbicide:

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

Impervious Area:

Any area that has been disturbed from its natural condition in such a way as to reduce the ability of the surface to absorb and infiltrate water into the soil, by regrading, placement of any material underlaid by plastic, placement of millings or any other drivable material. Impervious areas include, but are not limited to, compacted soils, buildings, pavement, parking lots, driveways, sidewalks, and any other man-made structure or surface that is built or laid on the natural surface of the land which has the effect of increasing, concentrating, or otherwise altering Stormwater runoff so that flows are increased. Xeriscaped properties and turf are considered pervious.

Improved Lot or Tract:

A lot or tract that has a structure or other improvement on it that causes an impervious coverage of the soil under the structure or improvement.

Industrial Waste:

Any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade, or business, including transportation related activities.

Industrial Activity:

The categories of industries and activities identified in TPDES General Permit pursuant to Chapter 26 of the Texas Water Code and Section 402 of the Clean Water Act, as amended, including, without limitation, construction activity including clearing, grading and excavation activities (except for operations that result in the disturbance of less than one (1) acre of total land area which are not part of a larger plan of development or sale).

Large Construction Activity:

Construction activities including, without limitation, clearing, grading, and excavating that result in land disturbance of equal to or greater than five (5) acres of land. Large construction activity also includes the disturbance of less than five (5) acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than five (5) acres of land. Large Construction Activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar Stormwater conveyance. Large construction activity does not include the routine grading of existing dirt roads, asphalt overlays of existing

roads, the routine clearing of existing rights-of-way, and similar maintenance activities.

Motor Vehicle fluid:

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

Municipal Drainage Utility Systems Act:

Section 552.001, et seq., of the Texas Local Government Code, as it may be amended to include, but not by way of limitation, the applicable definitions in the Municipal Drainage Utility Systems Act.

Municipal Landfill (or Landfill):

An area of land or an excavation in which municipal solid waste is placed for permanent disposal, and which is not a land treatment Facility, a surface impoundment, an injection well, or a pile (as these terms are defined in regulations promulgated by the TCEQ).

Municipal Separate Storm Sewer System ("MS4"):

The system of conveyances (including roads with Drainage Systems, municipal streets, flood control dams, retention and detention ~~basins~~ponds, grate and/or curb inlets, curbs, gutters, ditches, man-made channels, arroyos, agriculture drains, storm drains or designated flow paths) owned, operated or controlled by the City and/or EPWater and designed or used for collecting or conveying Stormwater, and which is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES):

The federal program under which the administrator of the United States Environmental Protection Agency may authorize the Discharge of waste into Waters of the United States according to Section 402 of the Federal Water Pollution Control Act (such administrator may also delegate its permitting authority to the State of Texas).

Non-Point Source:

Any source of any Discharge of a pollutant that is not a "Point Source."

Notice of Non-Compliance (NONC):

A notice issued to a Person or entity regarding non-compliance with Rules and Regulations No. 2.

Notice of Change (NOC):

The notice of change that is required by either the industrial General

Permit or the construction general permit.

Notice of Intent (NOI):

The notice of intent that is required by either the industrial General Permit or the construction General Permit.

Notice of Termination (NOT):

The notice of termination that is required by either the Stormwater Multi - Sector General Permit for Industrial Facilities or the Stormwater General Permit for Construction Activities.

Notice of Violation (NOV):

A written notification that documents and communicates violations of these Rules and Regulations No. 2 observed during an inspection that is issued to the business or individual so inspected.

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

Operator:

The Person or Persons who, either individually or taken together, meet either of the following two criteria: (a) they have operational control over the Facility specifications (including the ability to make modifications in specifications); and (b) they have the day-to-day operational control over those activities at the Facility necessary to ensure compliance with Pollution prevention requirements and any permit conditions.

Owner:

The Person who owns a Facility or part of a Facility or who has control over day-to-day activities.

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 or Person who has control over day-to-day activities. This definition includes all Federal, State, and local governmental entities.

Pesticide:

A substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant (as these terms are defined

in Section 76.001 of the Texas Agriculture Code).

Petroleum Product:

A petroleum product that is obtained from distilling and processing crude Oil and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene distillate fuel Oil, and No. 1 and No. 2 diesel.

Petroleum Storage Tank (PST):

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

Point Source:

Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation landfill, leachate collection system, vessel or other floating craft from which Pollutants are or may be Discharged. This term does not include return flows from irrigated agriculture or Agricultural Stormwater Runoff.

Pollutant:

Dredged spoil, solid waste, incinerator residue, Sewage, Garbage, Sewage sludge, filter backwash, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and 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, pastureland, and farmland.

Pollution:

The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any Waters in the State and/or the United States 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.

Probable Maximum Flood (PMF):

The largest flood that could occur at a particular location, usually estimated from the probable maximum precipitation, and where applicable, snow melt, coupled with the worst flood producing conditions in the water-shed.

Probable Maximum Precipitation (PMP):

Defined by the National Weather Service as "theoretically, the greatest depth of precipitation for a given duration that is physically possible over a given storm area at a particular geographical location at a certain time of the year".

Properly Maintained System:

A Drainage System must be kept functioning to carry out substantially the original purpose for which it was designed and constructed. Examples of a properly maintained system include but are not limited to regularly inspected, cleared of debris, trash, silt accumulation and sediment build up; be cleaned and any visible signs of erosion must be repaired.

Public Service Board ("PSB" or Board):

Refers to board of trustees established by the City pursuant to Section 1502.070 of the Texas Government Code under Ordinance No. 752 and Chapter 552 of the Texas Local Government Code under Ordinance No. 016668 charged with having complete authority and control of the management and operation of the Water, Wastewater and Stormwater Systems.

Public Utility:

A Stormwater service that is regularly provided by the municipality through municipal property dedicated to that service to the users of Benefited Property within the Service Area and that is based on:

a. An established schedule of charges;
b. The use of the police power to implement the service; and
c. Nondiscriminatory, reasonable, and equitable terms.

Release:

Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4 or the W~~w~~aters of the United States onto the ground in such a manner that a Pollutant may be Discharged in the MS4.

Release Report:

The report submitted by the Operator of the Facility that must be submitted following the notification of a prohibited Discharge into the MS4 or Waters of the United States.

Reportable Quantity (RQ):

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 or B

thereto and as amended from time to time.

Retention Pond:

Excavated area that protects against flooding by storing water for an indefinite period of time. Retention Ponds do not have an outlet structure. Release of water happens through infiltration and/or evaporation.

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 Stormwater, surface water, and groundwater are not intentionally admitted).

Septic Tank Waste:

Any Domestic Sewage removed from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Service Area:

All that area of land located within the city limits of the City and any other land areas as provided by the Municipal Drainage Utility Systems Act or other applicable law. Upon the effective dates of completed annexation of additional lands into the City, each such annexed additional land shall become part of the service area. Land annexed for limited purposes shall become a part of the service area upon annexation for full purposes. The Service Area may be extended by written resolution of the Board, to the extent permitted by the Act at the time of adoption of such resolution, to include other land areas outside the city limits of the City which, as a result of topography or hydraulics, contribute overland flow into the watersheds served by the system provided, however, in no event may the Service Area extend farther than the boundaries of the City's then current extraterritorial jurisdiction, nor, except as expressly provided by the Act, may the Service Area extend into the boundaries of another municipality.

Sewage (or Sanitary Sewage):

The Domestic Sewage and industrial waste that is Discharged into the City Sanitary Sewer Systems and passes through the sanitary sewer system to the City sewage treatment plant for treatment.

Site:

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.

Small Construction Activity:

Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one (1) acre and less than five (5) acres of land. Small Construction Activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres of land. Small Construction Activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar Stormwater conveyance. Small Construction Activity does not include the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing rights-of-way, and similar maintenance activities.

State:

The State of Texas.

Stop Work Order:

An order issued by EPWater to Persons or entities performing construction related activities ordering them to immediately cease construction activities to prevent, cease, or abate the commission of any offense in violation of these Rules and Regulations No. 2.

Stormwater:

Precipitation such as rainwater or melted snow that runs off streets, lawns, and other sites producing surface runoff that enters an MS4, also known as, Drainage System. ~~Stormwater runoff, snow melt runoff, and surface runoff and Drainage.~~

Stormwater Discharges Associated with Construction Activity**:**

Stormwater runoff from a construction activity where soil disturbing activities (including clearing, grading, excavating) result in the disturbance of one (1) or more acres of total land area, or are part of a larger common plan of development or sale that will result in disturbance of one (1) or more acres of total land area.

Stormwater Discharges Associated with Industrial Activity:

Stormwater runoff that exits ~~in~~ from any system that collects and conveys Stormwater that originates from manufacturing, processing, material storage, and waste material disposal areas (and similar areas where Stormwater can contact industrial Pollutants related to the Industrial Activity) at an industrial Facility. The definition is restricted, for the

purposes of this Rule, to those Stormwater Discharges that qualify for authorization under the provisions of the TPDES or NPDES General Permits.

Stormwater Pollution Prevention Plan (SWP3):

A plan required by a TPDES General Permit that describes and ensures the implementation of practices that are to be used to reduce the Pollutants in Stormwater Discharges associated with the Facility.

System/Stormwater System:

As used under these Rules and Regulations No. 2, System/Stormwater System shall mean the Municipal Drainage Utility System established by the Drainage Ordinance and encompassing the complete Drainage system of the City as it now exists and may be improved, added to, or extended hereafter, there being included in such term all Drainage Facilities now or hereafter owned or operated by the City, lying within and without the boundaries of the City, and including all real estate and real and personal property of every kind and nature comprising any part of or used or useful in the operation of the System but excluding parks, roads, and streets.

Texas Pollutant Discharge Elimination System (TPDES):

The state program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under Clean Water Act §§307, 402, 318 and 405, the Texas Water Code and Texas Administrative Code regulations as amended from time to time.

TPDES General Permit:

A permit issued by the TCEQ under the provisions of Section 402 of the Clean Water Act and/or Chapter 26 of the Texas Water Code.

Uncontaminated:

Not containing a Harmful Quantity of any Pollutant.

Used Oil (or used motor oil):

Any Oil that has been refined from crude Oil or a 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.

User:

The Person or entity that owns or occupies a Benefited Property.

Utility:

~~EPWU~~, EPWater, El Paso Water, or El Paso Water Utilities, as used herein means El Paso Water Utilities, the City of El Paso's publicly owned water, sewer, and drainage agency located in and serving the people of El Paso County, Texas.

Wastewater:

See Rules and Regulations No. 9 for definition.

Water(s); Water in the State:

Any groundwater, percolating or otherwise, lakes, ponds, impounding reservoirs, springs, rivers, canals, streams, 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, and including the beds and banks of all watercourses 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:

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 30 of the Texas Administrative Code as amended from time to time.

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 40 CFR Section 112.2; all tributaries of waters identified in this definition; all Wetlands adjacent to waters identified under 40 CFR Section 122.2; and any waters within the federal definition of "waters of the United States": at 40 CFR Section 122.2; including the Rio Grande River, but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.60.~~

1. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters including interstate wetlands;
3. All other waters such as intrastate rivers, streams (including intermittent streams), wetlands, natural ponds, the use, degradation, or destruction of which could affect interstate or foreign commerce including any such waters, which are or could be used by interstate or foreign travelers for recreational or other purposes; or
4. All impoundments of waters otherwise defined as waters of the United States

under 40 CFR Section 230.3 this definition;

5. All Tributaries of waters identified in this definition in paragraphs (s)(1) through (4) of this section;

6. All Wetlands adjacent to waters identified under 40 CFR 230.3; and any waters within the federal definition of Waters of the United States": at 40 CFR Section 230.3; including the Rio Grande River, but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act 60.

Wetland:

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

C. NEUTRAL GENDER

When the context requires, all nouns and pronouns in the masculine gender shall also include the feminine gender.

D. DAY(S)

When the term "day(s)" is referenced in these Rules and Regulations No. 2, the term shall mean calendar days unless otherwise specified.

E. CONDITIONS OF SERVICE

It is the intent of these Rules and Regulations No. 2 that Stormwater service be provided only to property that is within the Service Area as defined in Section I of this Rule. For the purpose of these Rules and Regulations No. 2, property shall be considered as being within the corporate limits of the City of El Paso and eligible for Stormwater service if it is located and improved in such a manner that all of the conditions for service, as defined in Rules and Regulations No. 1, are satisfied.

SECTION II PURPOSE AND ADMINISTRATION

A. PURPOSE AND SCOPE

The purpose of these Rules and Regulations No. 2 is~~are~~ to comply with all applicable local, State and Federal Stormwater Discharge laws implemented for the control, elimination or reduction of Pollutants from entering El Paso's Municipal Separate Storm Sewer System (MS4) and for control over Discharges to and from the System. The provisions of this chapter are intended to complement all relevant El Paso Municipal Code Ordinances and all agreements between the PSB and the City. This chapter shall apply to all Discharges to the MS4 generated on any developed and undeveloped land. The purposes of these Rules and Regulations No. 2 are enacted in furtherance of the following objectives:

1. To maintain and improve the quality of Stormwater, surface water and groundwater within the jurisdiction of the City.

2. To prevent the Discharge of contaminated Stormwater runoff from industrial, commercial, residential, and construction sites into the MS4 and Waters of the State and the United States

3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with these Rules and Regulations No. 2~~-~~.

4. To promote public awareness of the hazards involved in the improper Discharge of Hazardous Substances, Petroleum Products, Household Hazardous Waste, industrial waste, sediment from construction sites, Pesticides, Herbicides, fertilizers, and other contaminants into the storm drains and natural waters of the City.

5. To facilitate compliance with state and Federal standards and permits by Owners and Operators of Facilities engaged in industrial and construction activities within the City.

6. To enable ~~the~~ EPWater to comply with all Federal and State laws, regulations and permits applicable to Stormwater Discharge.

B. ADMINISTRATION

El Paso Water Utilities, under the direction of its President & CEO and acting through its employees and agents, is hereby authorized to administer this Rules and Regulations No. 2, and to take all steps necessary to implement them. Unless explicitly stated otherwise, references to the Public Service Board in this Rules and Regulations No. 2 shall include El Paso Water Utilities.

SECTION III GENERAL STORMWATER SYSTEM USE REQUIREMENTS

A. GENERAL AND SPECIFIC PROHIBITIONS

No Person shall introduce or cause to be introduced into the MS4 or Waters within the jurisdiction of the City any Discharge that is not composed entirely of Stormwater. The list of prohibitions in this Section III is not intended to be exclusive:

1. 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.

2. No Person shall Release or cause, allow, or permit to be introduced any of the following substances into the MS4 nor the waters within the jurisdiction of the City such that the substance may enter the MS4 system:

a. Any used motor Oil, antifreeze, or any other Motor Vehicle Fluid;
b. Any Industrial Waste;
c. Any Hazardous Waste, including Household Hazardous Waste;
d. Any Domestic Sewage or septic tank waste, grease trap waste, or grit trap waste;
e. Any wastewater from a commercial carwash Facility; from any commercial vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance Facility.
f. Any wastewater from the commercial washing, cleaning, de-icing, or other maintenance of aircraft;
g. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of building exterior where the wastewater contains any harmful cleaning substance;
h. Any wastewater from commercial floor, rug, or carpet cleaning;
i. Any wastewater from the washdown or other cleaning of pavement that contains any Harmful Quantity of any cleaning substance; or any wastewater from the washdown 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;
j. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;
k. Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydro mulch material, or from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;
l. Any filter backwash from a swimming pool, fountain, or spa;
m. Any non-dechlorinated swimming pool or spa water;
n. Any Discharge from water line disinfection by super-chlorination or other means if it contains any Harmful Quantity of chlorine or any other chemical used in line disinfection;
o. Any water from a water curtain in a spray room used for painting vehicles or equipment;
p. Any contaminated runoff from a vehicle wrecking yard;
q. Any substance or material that will damage, block, or clog the MS4;
r. 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 complies with all state

and federal standards and requirements;

s. Any Discharge into any street, gutter, ditch, channel, watercourse, drain, Stormwater inlet or storm sewer of any wastewater, including, without limitation, sand/grit trap sludges and restaurant grease trap sludges, or liquid waste containing cement, concrete, building materials, Oil, chemicals, wastewater or other liquid Industrial Waste, such as all waterborne solids, liquids or gaseous waste containing toxic or poisonous substances in amounts prohibited by any federal or state regulation or any substance which can block or interfere with the flow in any of the previously named storm sewers and other public rights-of-way.

3. No Person shall introduce, or cause to be introduced into the MS4 or Waters within the jurisdiction of the City, any Harmful Quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities, or associated with landfilling 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 under prevailing circumstances.

4. No Person shall connect a line conveying Sanitary Sewage, domestic or industrial, to the MS4, or allow such a connection to continue.

5. Regulation of Pesticides, Herbicides, and Fertilizers.

   a. Any sale, distribution, application, labeling, manufacture, transportation, storage, or disposal of a Pesticide, Herbicide, or Fertilizer must comply fully with all State and Federal statutes and regulations including, without limitation, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and all federal regulations promulgated pursuant to FIFRA; Chapters 63, 75, and 76 of the Texas Agriculture Code and all state regulations promulgated pursuant thereto; and any other state or federal requirement.

   b. No Person shall use or cause to be used any Pesticide or Herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation.

   c. No Person shall dispose of, discard, store, or transport a Pesticide, Herbicide, or Fertilizer, or a Pesticide, Herbicide, or Fertilizer container, in a manner that the Person knows, or reasonably should know, is likely to cause, or does cause, a Harmful Quantity of the Pesticide, Herbicide, or Fertilizer to enter the MS4 or Waters of the United States.

6. Used Oil Regulation.

a. No Person shall:

i. Discharge Used Oil into the MS4 or a sewer, Drainage system, septic tank, surface water, groundwater, or watercourse;

ii. 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 all Landfill or knowingly Discharge Used Oil onto the ground; or

iii. Introduce Used Oil into the environment by any method, including application of Used Oil to a road or land for dust suppression, weed abatement, or other similar use.

b. Notice to Public Required by Retailers:
A retail dealer who annually sells directly to the public more than five hundred (500) gallons of Oil in containers for use off-premises shall post in a prominent place a sign provided by the state informing the public that improper disposal of Used Oil is prohibited by law. The sign shall prominently display the toll-free telephone number of the State's Used Oil information center.

B. DEFENSES

No affirmative defense shall be available under this Section III(B) if the Discharge or flow in question has been determined to be a source of a Pollutant or Pollutants to the Waters of the United States or to the MS4, and written notice of such determination has been provided to the Discharger.

It is an affirmative defense to any enforcement action for violation of this Section III(B) that the Discharge was composed entirely of one or more of the following categories of acceptable Discharges:

1. A Discharge authorized by, and in full compliance with, an TPDES permit (other than the TPDES permit for Discharges into the MS4) or a Stormwater Pollution Prevention Plan (SWP3);

2. A Discharge resulting from firefighting;

3. Agricultural Stormwater Runoff;

4. A Discharge from water line flushing but not including a Discharge from water line disinfection that contains no Harmful Quantity of chlorine or any other chemical used in line disinfection;

5. A Discharge from lawn watering, landscape irrigation, or other irrigation water;

6. A Discharge from a diverted stream flow or natural spring;

7. A Discharge from Uncontaminated pumped groundwater or rising groundwater;

8. Uncontaminated groundwater infiltration (as defined in 40 CFR Section 35.2005 (20)) to the MS4;

9. Uncontaminated Discharge from a foundation drain, crawl space pump, footing drain or sump pump;

10. A Discharge from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;

11. A Discharge from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of Pollutant;

12. A Discharge from individual residential or charity car washing but only without the use of detergents or surfactants;

13. An Uncontaminated Discharge from riparian habitat or Wetland;

14. A Discharge from water used in street washing; provided, that the water is not contaminated with any harmful cleaning substance;

15. Vehicle, external building, and pavement wash water where detergents and soaps are not used and where spills or leaks of toxic or hazardous materials have not occurred (unless spilled materials have been removed; and if local, state, or federal regulations are applicable, the materials are removed according to those regulations), and where the purpose is to remove mud, dirt, and dust;

16. Water used to control dust.

C. RELEASE REPORTING AND CLEANUP

1. The Operator of any Facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing, or any other release of any of the following quantities of any of the following substances that may flow, leach, enter, or otherwise be introduced into the MS4 or waters of the United States, shall telephone and notify the Fire Department and EPWater as soon as practicable concerning the incident:

a. An amount equal to or in excess of a reportable quantity of any hazardous substance, as established under 40 CFR Part 302;

b. An amount equal to or in excess of a reportable quantity of any extremely hazardous substance, as established under 40 CFR Part 355;

c. An amount of oil that either (1) violates applicable water quality standards, or (2) causes a film or discoloration of the surface of the water or an adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline; or

d. Any harmful quantity of any pollutant.

2. The immediate report to EPWater and the Fire Department required by subsection 1 of this section shall include the following information:

a. The identity or chemical name of the substance Released, and whether the substance is an Extremely Hazardous Substance;

b. The exact location of the Release, including any known name of the Waters involved or threatened and any other environmental media affected;

c. The time and duration (thus far) of the Release;

d. An estimate of the quantity and concentration (if known) of the substance Released;

e. The source of the Release;

f. Any known or anticipated health risks associated with the release and, where appropriate, advice regarding medical attention that may be necessary for exposed individuals;

g. Any precautions that should be taken as a result of the Release;

h. Any steps that have been taken to contain and clean up the Released material and minimize its impacts; and

i. The names and telephone numbers of the Person or Persons to be contacted for further information.

3. Within fourteen (14) days following the report of an incident pursuant to this Section III(C), or following the receipt of notice of such a report, the Operator of a Facility, vehicle, or other source of the Release shall submit a written report (Release Report) to the EPWater containing the following information:

a. The ultimate duration, concentration, and quantity of the Release;

b. All actions taken to respond to contain, and clean up the Released substances, and all precautions taken to minimize the impacts;

c. Any known or anticipated acute or chronic health risks associated with the Release;

d. Where appropriate, advice regarding medical attention necessary for exposed individuals;

e. The identity of any governmental/private sector representatives

responding to the Release; and

f. The measures taken or to be taken by the responsible Person(s) to prevent similar future occurrences.

4. Any Release Report required by a State or Federal authority shall be adequate to meet the reporting requirements of this Section III(C) upon submittal to EPWater.

5. Nothing contained in this section shall be interpreted to limit liability of the responsible Person for the loss, damage, or other liability which may be incurred as a result of the Release of substances prohibited herein, including, without limitation, any liability for damages to EPWater, the City or to any Person.

6. Nothing contained herein shall be interpreted as to relieve the responsible Person of any fine, penalty, or other liability which may be imposed pursuant to local, state or federal law.

7. Any Person responsible for the Release of any substances prohibited herein shall comply with all state, federal, and any other local law requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the Release.

8. Any Person responsible for a Release described in this Section III(C) shall reimburse EPWater and/or the City for any costs incurred by the EPWater in responding to the Release within thirty (30) days of being invoiced by EPWater.

SECTION IV STORMWATER PERMITS

A. ADOPTION OF TPDES PERMITS

The following permits are hereby adopted and shall be considered part of these Rules and Regulations No. 2 to the prescribed extent of each of such permit: TPDES General Permit number TXR050000 for industrial facilities, TPDES General Permit number TXR150000 for construction facilities, and all other such TPDES General Permits, and their successors if applicable, required by the State or any other regulatory entity with the authority to regulate the Discharge of Stormwater within the Service Area of EPWater.

B. UNPERMITTED DISCHARGES PROHIBITED

A Person who is the Operator of a Facility commits an offense if the Person Discharges, or causes to be Discharged, Stormwater regulated by an NPDES or TPDES permit without first having obtained a NPDES or TPDES permit to do so.

C. SMALL CONSTRUCTION ACTIVITIES

1. Automatic Authorization for Small Construction Activities with Low Potential for Erosion: For Small Construction Activity that occurs during periods of low potential for erosion, Operators are not required to develop a Stormwater Pollution Prevention Plan (SWP3) or submit a NOI, so long as the following requirements are met:

   a. Construction activity is initiated and completed, including either final or temporary stabilization of all disturbed areas, within the time frame identified in the TPDES General Permit for the location of the construction site.
   b. A signed copy of the pertinent construction site notice, including the certification statement, is posted and maintained at the construction site in a location where it is readily available for viewing by the general public and local, State, and Federal authorities prior to commencing construction activities and a copy of it was mailed or delivered to EPWater at least two (2) days prior to Commencement of Construction activities.
   c. All temporary stabilization is adequately maintained to effectively reduce or prohibit erosion and Final Stabilization is completed no later than thirty (30) days following the end date of the time frame identified in the TPDES General Permit for the location of the construction site.
   d. Any supporting concrete batch plant or asphalt plant is separately authorized for Discharges under an individual TPDES permit or other TPDES permit.
   e. The Operator complies with the requirements of the TPDES General Permit.

2. Automatic Authorization for All Other Small Construction Activities: Other Small Construction Activity that does not comply with item 1) above may be automatically authorized under the TPDES General Permit and are not required to submit a NOI provided:

   a. The Operator develops a Stormwater Pollution Prevention Plan (SWP3) according to the provisions of the TPDES General Permit that covers either the entire Site or all portions of the Site for which the applicant is the Operator and implements that plan prior to the Commencement of Construction or any activities related thereto.
   b. The SWP3 and any fees shall be submitted to the City's Office of Planning and Inspections for review and approval. The approved SWP3 shall be obtained by the Operator from the City prior to Commencement of Construction activities. A copy of the SWP3

City permit shall be provided to EPWater at least two (2) days prior to Commencement of Construction activities.

c. A signed copy of the pertinent construction site notice, including the certification statement, is posted at the construction site in a location where it is readily available for viewing by the general public and local, State, and Federal authorities prior to Commencement Construction activities and a copy of it was mailed or delivered to EPWater at least two (2) days prior to Commencement of Construction activities.

d. The Operator complies with the requirements of the TPDES General Permit.

3. Waivers from Coverage for Small Construction Activities

Operators of Small Construction Activity sites may be eligible for a waiver from the requirements of this Section IV(C), in the sole discretion of EPWater, under the following terms and conditions:

a. The Operator of a Small Construction Activity site applies for and receives a waiver from the requirements to obtain authorization under the TPDES General Permit for construction where:

(i) The Operator prepares a signed "Low Rainfall Erosivity Waiver" in accordance with the TPDES General Permit for construction activities and certifying that the construction activity will commence and be completed within a period when the value of the calculated rainfall erosivity R factor is less than five (5);

(ii) The "Low Rainfall Erosivity Waiver" form is submitted to the TCEQ and a copy is provided to EPWater at least two (2) days before construction activity begins; and

(iii) The waiver is approved by TCEQ.

b. If a construction activity extends beyond the approved waiver period due to circumstances beyond the control of the Operator, the Operator must either:

(i) Recalculate the rainfall erosivity R factor using the original start date and a new projected ending date, and if the R factor is still under five (5), the Operator shall submit a new "Low Rainfall Erosivity Waiver" to the TCEQ and to EPWater at least two (2) days before the end of the original waiver period; or

(ii) Comply with the requirements of the previous two subsections (Section IV(C) (1) and IV(C) (2) at least two (2) days before the end of the approved waiver period.

D. LARGE CONSTRUCTION ACTIVITIES

Operators of Large Construction Activity that qualifies for coverage under the TPDES General Permit for construction must:

1. Develop a Stormwater Pollution Prevention Plan (SWP3) according to the provisions of the General Permit that covers either the entire Site or all portions of the Site for which the applicant is the Operator and implement that plan prior to commencing construction activities.

2. The SWP3 and any fees shall be submitted to the City for review and approval and a City SWP3 permit shall be obtained by the Operator from the City prior to Commencement of Construction activities. A copy of the SWP3 City permit shall be provided to EPWater Code Compliance at least two (2) days prior to Commencement of Construction activities.

3. Submit a Notice of Intent (NOI), along with required fee(s) if applicable, to TCEQ and EPWater at least ten (10) days prior to commencing construction activities, or within 24 hours before commencing construction activities if utilizing electronic NOI submittal. If the Operator changes, or an additional Operator is added after the initial NOI is submitted, the new Operator must submit an NOI at least ten (10) days before assuming operational control, or within 24 hours before assuming operational control if utilizing electronic NOI submittal.

4. Post a copy of the NOI at the construction site in a location where it is readily available for viewing by the general public and local, State, and Federal authorities prior to commencing construction activities, and maintain the notice in that location until completion of the construction activity.

5. Mail or deliver a copy of the signed NOI to EPWater Code Compliance at least two (2) days prior to the Commencement of Construction activities and retain proof of submittal of the NOI in the SWP3.

6. Submit the Notice of Termination (NOT) to TCEQ requesting termination of coverage at the termination of the permitted Discharges in accordance with the TPDES General Permit. A copy of the NOT shall be mailed or delivered to EPWater Code Compliance.

7. File a Notice of Change (NOC) letter with the TCEQ if applicable in accordance with the TPDES General Permit. A copy of the NOC shall be mailed or delivered to EPWater Code Compliance.

8. Comply with the requirements of the TPDES General Permit.

E. INDUSTRIAL ACTIVITIES

1. All Operators of industrial Facilities must:

a. Obtain a TPDES General Permit (number TXR050000) for industrial Facilities (unless exempt by the TCEQ for such permit) and do all of the following:

(i) Submit a NOI, along with required fee(s) if applicable, to TCEQ and EPWater prior to commencement of Industrial Activity that could result in a Discharge of Stormwater runoff subject to the requirements of the General Permit.

(ii) Maintain the NOI and SWP3 at the Site and be readily available for review by EPWater upon request.

(iii) Submit the Notice of Termination (NOT) to TCEQ within ten (10) days after the Facility ceases discharging Stormwater associated with Industrial Activity, obtains coverage under an individual permit, obtains coverage under an alternative General Permit, or within ten (10) days following transfer of ownership or responsibility of the Facility. A copy of the NOT shall be mailed or delivered to EPWater Code Compliance.

(iv) File a Notice of Change (NOC) letter with both TCEQ and EPWater within fourteen (14) days, if applicable in accordance with the General Permit.

(v) Continue to pay any required fee(s) to TCEQ.

(vi) Comply with the requirements of the TPDES General Permit.

b. Develop and implement a Stormwater Pollution Prevention Plan (SWP3) according to the provisions of the TPDES General Permit for Discharges associated with Industrial Activity that covers either the entire Site or all portions of the Site for which the applicant is the Operator prior to submitting a Notice of Intent (NOI).

(i) The SWP3 and any fees shall be submitted to the City's Office of Planning and Inspections for review and approval. The approved SWP3 shall be obtained by the Operator from the City prior to Discharges associated with Industrial Activity. A copy of the SWP3 City permit shall be provided to EPWater Code Compliance prior to Discharges associated with Industrial Activities.

2. Facilities regulated under a TPDES General Permit may be excluded from permit requirements if there is no exposure of industrial materials or activities from precipitation or runoff. To qualify for a no exposure exclusion from permit requirements, the Operator of the Facility must provide certification that industrial activities and materials are isolated from Stormwater and Stormwater runoff by storm resistant shelters. The certification shall be submitted to the TCEQ using the "No Exposure Certification" (NEC) form. A copy of the NEC form shall be provided to EPWater. The Facility is subject to inspection by EPWater to determine compliance with the NEC.

3. Any Discharge eligible for coverage under a TPDES General Permit may alternatively be authorized under an individual TPDES permit according to Title 30 Texas Administrative Code Chapter 305. If an industrial Facility operates under an individual permit for Stormwater Discharges, the Facility must comply with the requirements of the individual permit.

F. COMPLIANCE WITH PERMIT

1. A Facility shall be operated in strict compliance with the requirements of its NPDES or TPDES general or individual permit to Discharge Stormwater.

2. A Person shall be considered in non-compliance with this Section IV(F) if the Person: (1) operates a Facility in violation of a requirement of the Facility's NPDES; or (2) TPDES individual permit or General Permit to Discharge Stormwater; or (3) fails to obtain authorization to Discharge in accordance with TPDES Permit requirements, if applicable.

3. Notice of Non-Compliance. A Notice of Non-Compliance (NONC) shall be issued to the Person or business pursuant to Section IV(F)(2) may be accompanied with a fine or other disciplinary penalty. A Notice for Non-Compliance shall identify: (1) the non-compliance being alleged; (2) information on how to return to compliance; and (3) specify a reasonable time for the violator to return to compliance. If the time period for compliance expires, the Person shall be issued a Notice of Violation.

G. MODIFICATION OF SWP3

1. EPWater may require any Operator of a Facility to modify the Facility's Stormwater Pollution Prevention Plan (SWP3) if deficiencies in the implementation of the SWP3 are determined by EPWater.

2. The deficiencies in a Facility's SWP3 will be made in writing in a Notice of Non-Compliance, and EPWater will give the Facility Operator a reasonable amount of time, not to exceed thirty (30) days, to make the necessary changes in the SWP3. EPWater may grant a time extension if requested by the Operator and EPWater determines that the request is reasonable.

3. A Person commits an offense for failure to respond to EPWater's Notice of Non-Compliance or for failing to correct the deficiencies identified by EPWater within the required timeframe.

H. BEST MANAGEMENT PRACTICES

EPWater may adopt requirements identifying Best Management Practices (BMP) for any activity, operation, or Facility which may cause or contribute to Pollution or contamination of Stormwater, the storm drain system, or Waters of the United States. The Owner or Operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental Discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of these structural and non-structural BMP. Further, any Person responsible for a property or premise, which is, or may be, the source of an illicit Discharge, may be required to implement at said Person's expense, additional structural and non-structural BMP to prevent the further Discharge of Pollutants into the MS4. These BMP shall be part of a Stormwater Pollution Prevention Plan (SWP3).

SECTION V REPORTING AND MONITORING

A. MONITORING OF DISCHARGES

EPWater reserves the right to require the Discharger to install monitoring equipment as necessary. The Facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the Discharger at the Discharger's expense. All devices used to measure Stormwater flow and quality shall be calibrated to ensure their accuracy.

B. ACCESS TO FACILITIES

1. EPWater, or its agents or representative(s), or the agents or representatives of the TCEQ or EPA, may enter premises regulated by these Rules and Regulations No. 2 at all reasonable times, whenever it is necessary to make an inspection to enforce any of the provisions of these Rules and Regulations No. 2, to conduct any activity authorized or required by these Rules and Regulations No. 2, including without limitation, to inspect permits and records required by these Rules and Regulations No. 2, to

collect air, Stormwater, Water, waste, or Wastewater samples, or whenever probable cause exists to believe that a violation of these Rules and Regulations No. 2 or any other environmental laws exists on such premises.

2. EPWater agents and representatives shall first present credentials and request entry if the premises are occupied. If the premises are unoccupied, a reasonable attempt shall be made to locate the Owner or Person in control of the premises and request entry.

3. Where premises have security measures in force that require proper identification and clearance before entry into its premises, the Person in control of the premises shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, EPWater agents or representatives shall be permitted to enter without delay for the purpose of conducting any activity authorized or required by these Rules and Regulations No. 2, including without limitation ensuring compliance with these Rules and Regulations No. 2.

4. If entry is denied or if a Person in control cannot be located, EPWater agents or representatives shall have every recourse provided by law to secure entry. Such recourse may include, but is not limited to, the right to obtain a right of entry under applicable law.

5. Facility Operators shall allow EPWater agents or representatives immediate access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept pursuant to the terms of a SWP3, the conditions of an NPDES or a TPDES permit to Discharge Stormwater, if applicable, and the performance of any additional duties as defined by State and Federal law.

6. EPWater shall have the right to set up on any permitted Facility such devices as are necessary in the opinion of EPWater to conduct monitoring and/or sampling of the Facility's Stormwater Discharge.

7. 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 Operator at the written or oral request of EPWater and shall not be replaced. The costs of clearing such access shall be borne by the Operator.

8. Unreasonable delays in allowing EPWater access to a permitted Facility is an express violation of a Stormwater Discharge permit and of these Rules and Regulations No. 2. A Person who is the Operator of a Facility associated with construction or Industrial Activity commits an offense under these Rules and Regulations No. 2 if the Person denies EPWater

access to the Facility for the purpose of conducting any activity authorized or required by these Rules and Regulations No. 2, including without limitation ensuring compliance with these Rules and Regulations No. 2.

C. CITIZEN PARTICIPATION

1. All citizens are encouraged to report to EPWater any spills, Releases, illicit connections, other instances of anyone discharging Pollutants, into the MS4 or Waters of the United States, and any other violation of these Rules and Regulations No. 2, of which they become aware.

2. EPWater may receive citizen reports by telephone, in writing, or in person. A written record of each citizen report will be prepared and kept on file for a period of three (3) years, and a copy of EPWater's record of the report will be furnished to the reporting citizen upon request. Also, upon request, EPWater will inform the reporting citizen of any action undertaken by EPWater in response to the citizen's report.

D. CONFIDENTIAL INFORMATION

Discharger information and data obtained from reports, questionnaires, applications, permits, monitoring programs and inspections may be made public by EPWater subject to the Texas Public Information Act.

E. DISCHARGE MONITORING REPORTS

A copy of any Discharge Monitoring Report (DMR) submitted by the permittee under a TPDES General Permit shall be submitted to ~~–~~EPWater within fifteen (15) days of submitting it to the TCEQ.

F. NOTICES

Unless otherwise provided, all written notices required by these Rules and Regulations No. 2, shall be submitted to:

~~Vice President of Operations~~
~~-~~El Paso Water Utilities
Code Compliance Manager
~~1154 Hawkins Blvd~~4801 Fred Wilson Ave.
El Paso, TX 799~~06~~25

SECTION VI PENALTIES AND ENFORCEMENT

A. CIVIL PENALTIES

1. NOTICE OF VIOLATION

a. Whenever EPWater reasonably believes that any Person has violated or is violating any of the provisions contained in these Rules and Regulations No. 2 and/or a permit or order issued hereunder, EPWater may serve (either personally or by registered or certified mail) upon such Person or permittee a written Notice of Violation (NOV) directing the Person or permittee to stop alleged violation; to immediately comply with these Rules and Regulations No. 2; and to state that they are in violation of these Rules and Regulations No. 2 and specify the alleged violation.

b. The recipient of an NOV must respond in writing to EPWater within fifteen (15) days from the date of receipt of such notice (Response) indicating one of the following:

1. The Person or permittee admits his or her responsibility for the alleged violation. The Person or permittee shall also submit any required information specified in the NOV; or

2. The Person or permittee denies his or her responsibility for the alleged violation. The Person or permittee must submit an explanation to the EPWater explaining why responsibility is being contested.

EPWater will review Response submitted as to the appropriateness of the Response and whether or not any Civil Penalties will be assessed by EPWater. EPWater will subsequently issue a written decision. A Person or permittee may appeal such decision in accordance with Rules and Regulations No. 8.

Should the recipient of an NOV fail to send a Response to EPWater in writing within the fifteen (15) day response period, the recipient shall be deemed to have admitted to responsibility for the alleged violation. EPWater may assess Civil Penalties for the violation(s).

c. Civil Penalties assessed by EPWater will be included with the customer's subsequent EPWater monthly bill along with a copy of the NOV. Such penalties shall be paid by the customer upon receipt and/or due date specified on their bill. Non-payment of such charges related to the Notice of Violation shall be grounds for termination of EPWater services.

2. CIVIL PENALTIES

A Person who violates any provision of these Rules and Regulations No. 2 shall be subject to a civil penalty up to a maximum of $5,000 If a violation continues for more than one (1) day, each day shall constitute a separate offense. A culpable

mental state is not required to prove an offense under these Rule and Regulations No. 2.

B. CRIMINAL PENALTIES

1. CRIMINAL PENALTIES

Any Person violating any provision of these Rules and Regulations No. 2 may be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed $2,000 per violation, and if such violation is a continuous one, each day's violation shall constitute a separate offense, as outlined in Title 15 of the City of El Paso Municipal Code.

2. AUTHORITY TO ISSUE CITATIONS

Authorized EPWater personnel may issue Class C misdemeanor citations for violations of any provision of these Rules and Regulations No. 2.

C. STOP WORK ORDER

EPWater is authorized to issue Stop Work Orders to Persons or entities performing construction related activities ordering them to immediately cease construction activities to prevent or abate any violations of these Rules and Regulations No. 2. A Person or entity in violation of any provision of a Stop Work Order shall be subject to Civil Penalties.

D. SUSPENSION OF MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) ACCESS

1. Suspension due to Illicit Discharges in Emergency Situations. EPWater may, without prior notice, suspend MS4 discharge access to a Person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of Persons, or to the MS4 or Ww~~w~~aters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to Persons.

2. Suspension due to the Detection of Illicit Discharge. Any Person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit Discharge. EPWater will notify a violator of the proposed termination of its MS4 access. A violator may appeal the suspension in accordance with Rules and Regulations No. 8.

3. A Person commits an offense if the Person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of EPWater.

E. JUDICIAL RELIEF

Notwithstanding any contrary provisions herein contained, legal counsel for EPWater is hereby authorized, in the President's discretion, to initiate and proceed with legal action and/or equitable remedies against any Person and/or Discharger believed to be violating, believed to have violated or believed to be imminently about to violate any provision contained in these Rules and Regulations No. 2 and/or Federal or State laws governing water quality, Stormwater, and Hazardous Waste or non-hazardous waste over which EPWater has enforcement authority. A legal proceeding prosecuted under these Rules and Regulations No. 2 does not constitute a waiver by EPWater of any right EPWater may have to join in a legal action originating from an alternative source of law.

F. REMEDIES NONEXCLUSIVE

The remedies provided for in these Rules and Regulations No. 2 are deemed not exclusive, and EPWater may take more than one enforcement action against any Person in violation of the provisions contained herein. EPWater may take any, all, or a combination of the enforcement provisions contained herein and/or allowed under the law, to include, but not limited to termination of services, against a person in violation of these Rules and Regulations No. 2.

SECTION VII CUSTOMER'S RIGHTS AND RESPONSIBILITIES

A. CUSTOMER FACILITIES

EPWater does not assume the responsibility of inspecting any part of the customer's installation of Stormwater Facilities. The customer shall be solely responsible for the costs of installing and maintaining any such Facilities. EPWater shall have access to any Benefited Property served by the Drainage Utility for inspection or repair or for the enforcement of the provisions of these Rules and Regulations No. 2.

B. DAMAGE TO CUSTOMER

The City of El Paso and/or EPWater shall not be responsible for any loss or damage caused by the improper installation, condition or use of the User's equipment or by any negligence or wrongful act of the User or his agents, employees or licensees.

C. DAMAGE TO UTILITY EQUIPMENT

Any damage to equipment belonging to EPWater caused by the negligence or wrongful act of the User or its agents, employees or licensees shall be paid for by the User immediately upon issuance and receipt of a bill, therefore, non-payment of such charges shall be grounds for termination of service.

SECTION VIII DESIGN AND OWNERSHIP OF FACILITIES

A. OPERATIONS, MAINTENANCE AND OWNERSHIP

EPWater shall design, construct, operate and maintain all public Stormwater Facilities with due regard to present and future requirements of capacity, system operation and efficiency and anticipated life of such improvements. Title to all such Facilities shall remain in the El Paso Water Utilities, City of El Paso, Texas, acting by and through its Public Service Board upon completion of the construction of such Facilities and upon the incorporation of such Facilities into the operating system.

B. UTILITY FURNISHED EQUIPMENT

All EPWater-installed fixtures, equipment and materials shall remain the sole property of the El Paso Water Utilities, Public Service Board, acting for and on behalf of the City of El Paso.

SECTION IX SEVERABILITY CLAUSE

These Rules and Regulations No. 2 are part of the other Rules and Regulations of the Public Service Board and Persons accepting service agree to comply with the appropriate provisions and conditions of all of the Rules and Regulations. If any provision, paragraph, section, subsection, sentence, clause or phrase of these Rules and Regulations No. 2 or the application of same to any Person or set of circumstances is for any reason invalidated by and court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 2. The remaining provisions, paragraphs, words or sections shall not be affected and shall continue in full force and effect.

SECTION X– SAVINGS CLAUSE

These Rule and Regulations No. 2 are expressly made a part of the other Rules and Regulations promulgated by the Public Service Board and, save and except as amended hereby, the remaining provisions of the Public Service Board's Rules and Regulations shall remain in full force and effect.

SECTION XI EFFECTIVE DATE

These Rules and Regulations No. 2 shall be and become effective from and after their adoption hereby and shall remain in effect until amended or changed by the Public Service Board.

PASSED, APPROVED and ADOPTED at the regular meeting of the Public Service Board of the City of El Paso, Texas, the 12th day of December, 2007, at which a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001 et. seq.

RULES & REGULATIONS NO. 2, SECTION 1.B., ADDED, REVISED, APPROVED & ADOPTED the 23rd day of July 2008, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 2, SECTION 1 (B), ADDED, REVISED, APPROVED & ADOPTED the 9th day of January 2019, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 2, SECTION I (A, B, D, E), SECTION II (A), SECTION III (A, B, C) SECTION IV (A, B, C, D, Ei F, G, H}, SECTION V (A, B, C, D, E, F) SECTION VI (A, B, C, D, E, F}SECTION V I (A, B, C,) SECTION VIII (A, B) SECTION IX AND SECTION X, ADDED, REVISED, APPROVED & ADOPTED at the regular meeting of the Public Service Board of the City of El Paso, Texas, at which a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections551.00 I et. seq on this the 13th day of April 2022.

RULES & REGULATIONS NO. 2, SECTION I (B), SECTION II (A)(6), SECTION IV (D)(2)(5)(6)(7), (E)(a)(iii), (E)(b)(i), SECTION V (F) SECTION VI (D)(1), ADDED, REVISED, APPROVED & ADOPTED at the regular meeting of the Public Service Board of the City of El Paso, Texas, at which a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.00 I et. seq on this the 14th day of February 2024.

PUBLIC SERVICE BOARD:

Dr. Ivonne Santiago

ATTEST:

Charlie Intebi, Secretary-Treasurer

APPROVED AS TO FORM:

Daniel Ortiz, General Counsel

RULES AND REGULATIONS NO. 3

RULES AND REGULATIONS
ESTABLISHING ADJUSTED RATES FOR THE
FURNISHING OF STORMWATER SERVICE
BY THE EL PASO WATER UTILITIES

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF CHAPTER 552, SUBCHAPTER A OF THE TEXAS LOCAL GOVERNMENT CODE, AS AMENDED (THE ACT), AUTHORIZING THE CITY TO ESTABLISH A MUNICIPAL DRAINAGE UTILITY SYSTEM, AND ORDINANCE 016668, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON JUNE 19, 2007, DECLARING THE DRAINAGE SYSTEM OF THE CITY TO BE A PUBLIC UTILITY AND AUTHORIZING THE PUBLIC SERVICE BOARD TO HAVE COMPLETE AUTHORITY AND CONTROL OF THE MANAGEMENT AND OPERATION OF THE SYSTEM; NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING RULES FOR THE FURNISHING OF STORMWATER SERVICE WITHIN THE CITY OF EL PASO ARE HEREBY ESTABLISHED.

SECTION I GENERAL

A. TABLE OF CONTENTS

The following headings or captions are adopted as the Table of Contents for Public Service Board Rules and Regulations No. 3.

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B. DEFINITIONS

Benefited Property:
An improved lot or tract to which service is made available under the establishing Drainage Ordinance and in accordance with applicable Rules and Regulations.

Best Management Practices (BMPs):
Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to control, prevent or reduce the discharge of pollutants. 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.

Compacted Soil:
Any amount of compaction above the soil's natural state caused by any means. This includes but is not limited to soil that has been compressed by vehicles that have driven over it.

Delinquent Accounts:
A user of the Utility who has failed to pay the charges promptly when due.

Detention Pond:
Excavated area that protects against flooding by storing water for a pre-determined period of time. Detention Ponds have an outlet structure.

Drainage Ordinance:
Ordinance 016668 passed and approved by the City Council of the City of El Paso, Texas on June 19, 2007, authorizing the Public Service Board to have complete authority and control of the management and operation of the stormwater system.

EPWater:
See definition of Utility below.

EPWU:
See definition of Utility.

Equivalent Residential Unit ("ERU"):
A unit determined by dividing the impervious square footage of a property by 2,000 square feet.

Impervious Area:
Any area that has been disturbed from its natural condition in such a way as to reduce the ability of the surface to absorb and infiltrate water into the soil, by regrading, placement of any material underlaid by plastic, placement of millings or any other drivable material. Impervious Areas include, but are not limited to, Compacted Soils, buildings, pavement, parking lots, driveways, sidewalks, and any other man-made structure or surface that is built or laid on the natural surface of the land which has the effect of increasing, concentrating, or otherwise altering stormwater runoff so that flows are increased. Xeriscaped properties and turf are considered pervious.

Municipal Separate Storm Sewer System ("MS4"):
The system of conveyances (including roads with drainage systems, municipal streets, flood control dams, retention and detention basins, grate and/or curb inlets, curbs, gutters, ditches, man-made channels, arroyos, agriculture drains, storm drains or designated flow paths) owned, operated or controlled by the city and/or the Public Service Board and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.

Non-Residential Property(ies):
Non-Residential Properties shall include all non-residential customer classes including apartments (quadplexes and higher), commercial and industrial customers, and any other class not designated as residential, but excluding those subject to mandatory exemption under Section 552.053(c) of the Texas Local Government Code.

Probable Maximum Flood (PMF):

The largest flood that could occur at a particular location, usually estimated from the Probable Maximum Precipitation, and where applicable, snow melt, coupled with the worst flood producing conditions in the water shed.

Probable Maximum Precipitation (PMP):

Defined by the National Weather Service as "theoretically, the greatest depth of precipitation for a given duration that is physically possible over a given storm area at a particular geographical location at a certain time of the year".

Properly Maintained System:

A drainage system must be kept as originally designed and constructed. Examples of a Properly Maintained System include but are not limited to regularly inspected, cleared of debris, trash, silt accumulation and sediment build up; be cleaned and any visible signs of erosion must be repaired.

Retention Pond:

Excavated area that protects against flooding by storing water for an indefinite period of time. Retention ponds do not have an outlet structure. Release of water happens through infiltration and/or evaporation.

Residential Property(ies):

Residential Properties shall include single family, duplex, and triplex properties.

Undeveloped Land:

Property held and maintained in its natural state on which no improvements currently exist.

Utility:

EPWU, EPWater, El Paso Water as used herein, means El Paso Water Utilities, which provides stormwater services through the Municipal Drainage Utility System.

Wholly Sufficient:

Land and dedicated engineered stormwater structures owned and operated for the purpose of retaining 100 percent of the volume, with no discharge, of the Probable Maximum Flood, which includes proper allowances for emergency storage and siltation.

SECTION II ADJUSTED STORMWATER CHARGES

A monthly stormwater fee shall be imposed on each improved parcel within the City of El Paso for services and facilities provided by the Utility, except as provided for by law or by these Rules and Regulations. The stormwater fee shall be based on the developed use of the Benefited Property and its estimated amount of Impervious Area. The adjusted stormwater rates are effective with the March Utility billing cycle. The following charges shall apply for stormwater service provided to property within the City of El Paso:

A. STORMWATER CHARGE FOR RESIDENTIAL ~~(TO BE MODIFIED BY ART D.)~~

Residential Properties will be charged a fixed monthly charge as shown in the following table:

Residential Category	Impervious Area (Square Feet)	Stormwater Monthly Charge
Small	0 – 1,200	$3.20~~2.83~~
Typical	1,201 – 3,000	$6.40~~5.66~~
Large	> 3,000	$12.77~~11.30~~

Residential Properties may be assigned to the Small, Typical, or Large category using data obtained from the

Central Appraisal District, Utility's GIS database, or any other source deemed reasonable by the Utility.

B. STORMWATER CHARGE FOR NON-RESIDENTIAL

Non-Residential Properties shall include apartments, quadruplexes, commercial, industrial customers, and any other customer class not designated as residential, but excluding those subject to mandatory exemption. Non-Residential Properties shall be charged for their estimated impervious square footage on a per Equivalent Residential Unit ("ERU") basis. The ERUs are calculated by dividing the property's estimated impervious square footage by 2,000 square feet. The monthly charge per non-residential ERU is $6.51~~5.76~~

An example of the monthly stormwater bill for a Non-Residential Property is shown below:

Non-residential impervious square footage	20,000 sq. ft.
Equivalent Residential Unit value	2,000 sq. ft.
Equals calculated ERUs	10 ERUs
Monthly charge (10 ERUs x $6.51~~5.76~~/ERU/Mo.)	$65.10~~57.60~~

All social service entities, non-profit agencies, and churches will pay a fee equal to 10% of the approved non-residential fee. This rate will remain in effect until the account is closed. New account holders must apply in writing to EPWU Customer Service to request this reduced fee.

Apartment units with meters classified as residential will be billed individually based on the unit size per residential category (small, typical or large). If the complex is two or more stories, the charge will be divided among the number of units sharing the same footprint.

The City of El Paso Housing Authority and independent school districts are exempt from stormwater fees in accordance with Section 552.053(e), Texas Local Government Code.

C. IMPERVIOUS AREA DETERMINATION

The Utility has the authority to establish the impervious square footage using the following approaches:

1. An analysis of El Paso Central Appraisal District data on the footprint of the main building and any structural additions such as garages or tennis courts that would increase the impervious footprint of the parcel.

2. A calculation of the impervious square footage using GIS and aerial photography.

3. Detailed and approved building plans provided.

4. Any other source deemed reasonable by the Utility.

The Impervious Area for a property may be updated at any time to reflect improvements made to the property that would either increase or decrease the estimated impervious square footage.

D. STORMWATER-ONLY ACCOUNTS

The Utility may establish stormwater-only accounts for properties that contribute stormwater as a result of their Impervious Area.

SECTION III BILLING FOR STORMWATER

A. MONTHLY BILLING

A stormwater charge shall be billed on the monthly Utility bill. The due date for payment and associated charges for Delinquent Accounts under Section V of Rules and Regulations No. 5 are hereby incorporated by reference as applying to stormwater charges. Discontinuance of service and Delinquent Accounts are addressed further in these Rules and Regulations.

B. RESPONSIBLE PARTY

The monthly charge for stormwater will be billed to the customer established as the responsible party for water service. If the Benefited Property does not receive a monthly Utility bill, the stormwater charge will be the responsibility of the property owner.

C. MULTIPLE METERS

If more than one meter serves a Benefited Property, the Utility will determine the allocation of the charge among the users using any reasonable method, including allocating the charge equally among the users of a Benefited Property.

D. EXEMPTIONS

The following entities or individuals shall be exempt from charges:

1. Any property to which a mandatory exemption under Section 552.053(c) of the Texas Local Government Code applies, including without limitation:

   a. Property with proper construction and maintenance of a Wholly Sufficient and privately owned drainage system including each of the following elements:

      (i) Land and dedicated engineered stormwater structures owned and operated for the purpose of retaining 100 percent of the volume, with no discharge, of the Probable Maximum Flood, which includes proper allowances for emergency storage and siltation.

      (ii) There shall be no discharge of the system into a street, alley, arroyo, creek, river, slough, culvert or other channel that is part of the municipal drainage system.

      (iii) A post-construction survey of the development must be completed to verify that the improvements were constructed per the approved grading plan and that all runoff is being retained within the development. The post-construction survey must be performed by a registered professional land surveyor, at the expense of the owner.

      (iv) The facility must have a written maintenance plan effectively documenting policies and procedures designed to ensure that the stormwater system will continue to safely contain the Probable Maximum Flood.

      (v) The owner must provide documentation required in (i) through (iv) of this Section in the form of engineering reports, surveys, maps, and supporting documentation signed and sealed by a Registered Professional Engineer.

      (vi) The stormwater Utility engineering staff will review the documentation submitted. If there is insufficient information, the owner will then be responsible to resubmit the required documentation.

      (vii) The stormwater Utility engineering staff will render a decision regarding the submitted documentation. The decision could include defining all or a portion of the parcel as Wholly Sufficient.

      (viii) The exemption shall be in effect as long as the owner complies with the requirements as described in (i) through (iv) of this Section.

      (ix) The stormwater Utility staff retains the right to enter the property to inspect the facilities at any time during normal business hours. If entry is denied, the Wholly Sufficient exemption will not be applicable to the property.

   b. Property held and maintained in its natural state, until such time that the property is developed and all of the public infrastructure constructed has been accepted by the

municipality in which the property is located for maintenance.

c. A subdivided lot, until a structure has been built on the lot and a certificate of occupancy has been issued by the municipality in which the property is located.

2. Any property to which a mandatory exemption under Section 552.053 of the Texas Local Government Code applies, or which is exempt under applicable federal law, including, but not limited to:

a. A federal or state agency; and

b. A public institution of higher education.

E. CREDITS

A credit on the stormwater charges billed may be granted for Non-Residential Properties that have properly implemented stormwater management measures that meet the minimum design standards established by the City of El Paso. A 25% credit will be given after the written application is submitted to the Utility and the Utility verifies that the stormwater pond is properly designed, built and maintained to the design conditions and capacity. At the time of application to receive a credit, the applicant must provide a post-construction survey of the development at the time of the application to verify improvements were constructed per the approved grading plan. The post-construction survey must be performed by a registered professional land surveyor (RPLS), at the expense of the property owner. The credit is not retroactive and will only apply to billing forward from the date of approval from the Utility. The Utility may revoke the credit if the pond is not maintained as designed. Residential Properties are not eligible for credits.

SECTION IV DISCONTINUANCE OF SERVICE

The Utility shall have the right, with notice to the customer, to discontinue water service for non-payment of stormwater charges, for violation of any provisions of the Utility's Rules and Regulations or any other lawful rule or regulation of the Utility or the City of El Paso, or for any other action which interferes with providing stormwater service or which creates a danger of contamination to the water system. Provided, however, the Utility shall have the authority to immediately discontinue the customer's service without notice should any violation of EPWater Rules and Regulations or any other applicable regulations under applicable laws cause an immediate threat to the public health or safety or the environment. Such service shall remain discontinued until all errors are rectified and/or violations have ceased.

SECTION V DELINQUENT ACCOUNTS

The Texas Local Government Code, Section 552.050, authorizes a utility to discontinue any utility services it currently provides for failure to pay stormwater charges when due by stating the following: *"…failure of a user of the municipal utilities within the service area to pay the charges promptly when due shall subject such user to discontinuance of any utility services provided by the municipality…"*. The schedule for payment and disconnection of water service and all associated charges and fees applicable to delinquent stormwater accounts are as stated in Rules and Regulations No. 5.

SECTION VI APPEALS

Customer may follow the processes of Rules and Regulations No. 8 to appeal certain administrative decisions, request an appeal to the Public Service Board, request a variance from the Rules and Regulations or to file complaints regarding service and billing issues and regarding the application of the Rules and Regulations.

SECTION VII SEVERABILITY

These Rules and Regulations are part of the other Rules and Regulations of the Public Service Board and persons accepting services agree to comply the appropriate provisions and conditions of all the Rules and Regulations. If any provision, paragraph, section, subsection, sentence, clause or phrase of these Rules and Regulations No. 3 or the application of same to any person or set of circumstances is for any reason invalidated by any court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 3. The remaining provisions, paragraphs, words or sections shall not be affected and shall continue in full force and effect.

SECTION VIII SAVINGS

These Rules and Regulations are a part of the other Rules and Regulations of the Public Service Board and, save and except as amended hereby, the remaining provisions of the Public Service Board's Rules and Regulations shall remain

in full force and effect.

SECTION IX EFFECTIVE DATE

These Rules and Regulations No.3 shall be and become effective from and after their adoption by the Board and shall remain in effect until amended or changed by the Public Service Board. Changes to any fees or rates resulting from approval of the budget are effective on the 1st day of March and shall remain in effect until amended or changed by the Public Service Board

PASSED, APPROVED and ADOPTED, AMENDED STORMWATER RATES at the special meeting of the Public Service Board of the City of El Paso, Texas, this 7th day of May, 2008, and AMENDED DEFINITION OF WHOLLY SUFFICIENT at a regular meeting of the Public Service Board of the City of El Paso, Texas, this the 23rd day of July, 2008, at which a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001 et. seq.

RULES AND REGULATIONS NO. 3, SECTION III(E), AMENDED, APPROVED and ADOPTED this 11th day of March, 2009.

RULES AND REGULATIONS NO. 3, SECTION II(B), AMENDED IN 2011 BY ACTION OF THE 81ST TEXAS LEGISLATURE.

No action necessary by Public Service Board

RULES AND REGULATIONS NO. 3 SECTION II (A, B), AMENDED, APPROVED, and ADOPTED this 21st day of January 2015, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION II (A, B), SECTION III D(a)(vii) AMENDED, APPROVED, and ADOPTED this 13th day of January 2016, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION II (A, B), AMENDED, APPROVED, and ADOPTED this 11th day of January 2017, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION II (A, B), AMENDED, APPROVED, and ADOPTED this 10th day of January 2018, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION I (B), SECTION III (D) (1)(a), (b), (E), AMENDED, APPROVED, and ADOPTED this 9th day of January, 2019, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION II (A, B), AMENDED, APPROVED, and ADOPTED this 13th day of January, 2021, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION I (A, B), SECTION II (A, B, C, D), SECTION III (A, B, C, D, E), SECTION IV, SECTION V, SECTION VI, SECTION VII AMENDED, APPROVED, and ADOPTED this 12th day of January, 2022, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION I (A, B), SECTION II (A, B, E), SECTION III (D, E), SECTION IV, SECTION V, SECTION VI, SECTION VIII, SECTION IX AMENDED, APPROVED, and ADOPTED this 11th day of January, 2023, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION I (A, B), SECTION II (A, B,), APPROVED, and ADOPTED this 10 4th day of ~~January~~February, 2024, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

PUBLIC SERVICE BOARD

Dr. Ivonne Santiago

ATTEST:

Charlie Intebi- Secretary-Treasurer

APPROVED AS TO FORM:

Daniel Ortiz, General Counsel