

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS AMENDING CHAPTER 52, "STORMWATER QUALITY PROTECTION;" OF THE CODE OF MANSFIELD, TEXAS; AMENDING THE REGULATIONS RELATED TO THE PERFORMANCE STANDARDS TO CONTROL STORMWATER QUALITY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Texas released the Texas Pollutant Discharge Elimination System General Permit TXR 150000 regulating discharges from construction sites February 8, 2018 and TXR 040000 regulating discharges from municipal separate storm sewer systems January 24, 2019; and

WHEREAS, the City of Mansfield is a regulated entity that must comply with the permit regulations to continue to discharge storm water into Waters of the State and Waters of the United States; and

WHEREAS, the City of Mansfield, Texas deems it appropriate to adopt amendments to Chapter 52 of the Code of Ordinances to provide regulations for performance standards to control stormwater quality within the City;

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

SECTION 1.

That Title V, "Public Works," Chapter 52, "Stormwater Quality Protection," Section 52.18, Definitions," of the Code of Ordinances of the City of Mansfield, Texas is hereby amended to add the definition of "*Final Stabilization*":

"Section 52.18 Definitions.

...

FINAL STABILIZATION. A construction site status where any of the following conditions are met:

(A) All soil disturbing activities at the site have been completed and a uniform (that is, evenly distributed, without large bare areas) perennial vegetative cover with a density of at least 70% of the native background cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent measures (such as use of riprap, gabions, or other measures) have been employed.

(B) For individual lots in a residential construction site by either:

(1) the homebuilder completing final stabilization as specified in condition (A) above; or

(2) only after prior approval from the Public Works Director, or the Public Works Director's authorized representative, the homebuilder establishing temporary stabilization for an individual lot prior to the time of transfer of the ownership of the home to the buyer and after informing the homeowner of the need for, and benefits of, final stabilization.

(C) For construction activities on land used for agricultural purposes, final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface water and areas that are not being returned to their preconstruction agricultural use must meet the final stabilization conditions of condition (A) above.

..."

SECTION 2.

That Title V, "Public Works," Chapter 52, "Stormwater Quality Protection," Section 52.38, "Submission of Notice of Intent, Construction Site Notice, and Notice of Termination to the City," of the Code of Ordinances of the City of Mansfield, Texas is hereby amended to read as follows:

"Section 52.38 Submission of Notice of Intent, Construction Site Notice, and Notice of Termination to the City

...

(B) These documents may be delivered to the Public Works Director either in person or by mailing to:

Public Works, Stormwater

City of Mansfield

1200 E. Broad St

Mansfield, TX 76063

Or email:

stormwater@mansfieldtexas.gov

..."

SECTION 3.

That Title V, "Public Works," Chapter 52, "Stormwater Quality Protection," Section 52.40, "Discharges Associated with Construction Activity," of the Code of Ordinances of the City of Mansfield, Texas is hereby amended to read as follows:

"Section 52.40 Discharges Associated with Construction Activity

...

- (1) To the extent possible and where feasible preserve existing vegetation. Stabilization measures for all disturbed areas associated with the construction project, regardless of physical location within or without the site, shall be implemented in compliance with the Stormwater Pollution Prevention Plan prepared for the construction site and in accordance with any additional requirements contained within the effective Texas Commission on Environmental Quality Construction General Permit TXR 150000.

...

- (5) Prevention of the discharge of building materials, including cement, lime, concrete and stucco operations, mortar, sand, or similar materials used in such activities, to the MS4;

...

- (10) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, must be treated to the extent practicable and so that sediments are filtered or settled prior to ultimate discharge from site or into an underground storm sewer system.

..."

SECTION 4.

That Title V, "Public Works," Chapter 52, "Stormwater Quality Protection," Section 52.42, "Privately Owned Stormwater Facility Requirements," of the Code of Ordinances of the City of Mansfield, Texas is hereby amended to read as follows:

"Section 52.42 Privately Owned Stormwater Facility Requirements

- (A) Owners, operators, or other benefitted users of property with a privately-owned stormwater facility, control device, measure, structure, or other component, regardless whether inside a public drainage easement or not, shall be responsible for maintenance in accordance with the maintenance plan or recommendations as described by the manufacturer, design engineer, or other party responsible for determining maintenance

needs. Maintenance records or other evidence of maintenance activities that have taken place shall be retained by the owners, operators, or other benefitted users and shall be made available to the Public Works Director, or the Public Works Director's authorized representative, as needed to provide proof of maintenance and/or inspections.

- (B) Owners, operators, or other benefitted users of newly developed, or redeveloped properties with a privately owned stormwater facility after the effective date of this section shall have a maintenance plan or recommendations for the facility, control device, measure, structure or other component, regardless of whether inside a public drainage easement or not, filed with the real property records of the county in which the property is located. The Public Works Director, or the Public Works Director's authorized representative, may request a copy(ies) of the maintenance plan or recommendations prior to submission to the county of record.
- (C) Owners, operators, or other benefitted users of a property with a stormwater facility, control device, measure, structure, or other component, regardless of whether inside a public drainage easement or not, commits an offense if maintenance is not conducted in accordance with the maintenance plan or recommendations causing failure of the stormwater facility, control device, measure, structure, or other component to function as intended/designed.
- (D) Owners, operators, or other benefitted users of a property with a stormwater facility, control device, measure, structure, or other component, regardless of whether inside a public drainage easement or not, commits an offense if the stormwater facility, control device, measure, structure, or other component is disabled, removed, or otherwise intentionally caused to fail without the prior approval of the Public Works Director, or the Public Works Director's authorized representative.

SECTION 5.

That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 6.

Should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part of provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION 7.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be subject to the penalties and provisions in Section 10.99 of the Code of Ordinances, City of Mansfield, Texas.

SECTION 8.

That all rights or remedies of the City of Mansfield, Texas, are expressly saved as to any and all violations of the City Code or any amendments thereto regarding the subject matter herein that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil or criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 9.

The City Secretary of the City of Mansfield is hereby directed to publish the caption and penalty clauses of this ordinance at least once in the official newspaper of the City of Mansfield.

SECTION 10.

This ordinance shall take effect immediately from and after its passage on third and final reading and the publication of the caption, as the law and charter in such cases provide.

First reading approved on the 28th day of October, 2019

Second reading approved on the _____ day of _____, 2019

DULY PASSED on the third and final reading by the City Council of the City of Mansfield, Texas, this the _____ day of _____, 2019

David Cook, Mayor

ATTEST:

Susana Marin, City Secretary