

CITY OF LAVON, TEXAS
ORDINANCE NO. 2019-04-02

Post-Construction Stormwater Management

AN ORDINANCE OF THE CITY OF LAVON, TEXAS, AMENDING CHAPTER 13 “ENVIRONMENTAL PROTECTION AND COMPLIANCE” OF THE CODE OF ORDINANCES TO ADD ARTICLE 13.03 “POST-CONSTRUCTION STORMWATER” IN ORDER TO ESTABLISH METHODS FOR THE MANAGEMENT OF POST-CONSTRUCTION STORMWATER; PROVIDING A PENALTY; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the City Council of the City of Lavon, Texas (the “City Council”) has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Lavon, Texas (“Lavon”) to adopt regulations pertaining to the municipal separate storm sewer system (MS4); and

WHEREAS, the City Council has authority under state law to adopt the regulations herein; and

WHEREAS, the City Council finds that these regulations should be updated to provide for the efficient enforcement of same and that these regulations are in the best interest of the City and the public health, safety, and welfare of the City.

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

SECTION 1. Background

1-1. Findings of Fact

The City finds that construction activities and land development alter the hydrologic characteristics of the land by increasing impervious surface area and, in some cases, change the terrain. These alterations increase stormwater runoff volume and accelerate the rate of flow, which may lead to erosion. In addition, impervious surfaces harbor water pollutants, which are carried to local water bodies via runoff.

1-2. Purpose

The City finds that proper management of post-construction stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment, and general welfare, and protect water resources. This purpose is accomplished via the following actions:

- (1) Establishing minimum post-construction stormwater management standards to minimize stormwater runoff volumes and regulate subsequent quality; and,
- (2) Identifying the long-term responsibility for maintenance of permanent best management practices (BMPs) and setting forth plans to ensure continued functionality.

SECTION 2. Definitions

Best Management Practice (BMP) or [Stormwater Control Measure]: schedule of activities, prohibitions of practices, maintenance procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge of pollutants. BMPs also include treatment practices, operating procedures, and practices to control runoff, spills or leaks, waste disposal, or drainage from raw materials storage areas; a list of acceptable BMPs can be found in the City's Stormwater Management Program.

Maintenance Agreement: a formal contract between a local government and a property owner to guarantee long-term maintenance of stormwater management practices.

Operations and Maintenance Plan: a legally recorded document that acts as a property deed restriction and which provides for the long-term maintenance of stormwater management practices.

Owner: the deed holder of the land upon which the stormwater facility resides, to be determined by the most recently approved city tax roll.

Permanent BMP [or Permanent Stormwater Control Measure]: all practices and facilities employed to meet and maintain stormwater runoff quantity and quality requirements after site development has been completed.

Post-construction [or Post-Development]: activities and operations performed after the Notice of Termination for a development or redevelopment project has been filed and approved.

Stormwater Facility: any physical facility built to control stormwater runoff.

SECTION 3. Minimum Stormwater Control Standards

All permanent BMPs must be designed to meet the criteria and specifications of the City's Drainage and Stormwater Management regulations. Stormwater runoff quantity and quality after development or redevelopment of the property should not exceed pre-development conditions, to the greatest extent practicable. If site conditions warrant greater than the minimum required control, the City may impose additional requirements to ensure acceptable runoff volumes, rates, and quality.

SECTION 4. Operations and Maintenance Plan

4-1. Operations and Maintenance Plan Requirements

The Operations and Maintenance Plan must clearly identify the person(s) responsible for operation and maintenance of temporary and permanent BMPs to ensure proper and continuous function. The Operations and Maintenance Plan and records of all maintenance tasks as performed shall be retained on site. The Operations and Maintenance Plan shall include, but is not limited to:

- (1) Identification of person(s) or position title responsible for all tasks in the plan;
 - a. Adherence to the Operations and Maintenance plan is the responsibility of the individual property owner or of the Homeowner's Association (HOA) if the facility is part of a subdivision.
- (2) Inspection requirements;

- a. Self-inspection: The maintenance plan shall require documentation of self-inspection of the stormwater management facilities. Self-inspection documentation must be completed and submitted to the Public Works Director on an annual basis.
- b. City inspection: The City reserves the right to inspect all stormwater facilities for compliance with maintenance guidelines on an as-needed basis.

(3) Maintenance requirements;

- a. Description of maintenance tasks and anticipated frequency, including both routine and non-routine maintenance.
 - i. Routine maintenance:
 1. Vegetation Management
 2. Debris Removal
 3. Mechanical Equipment Check
 - ii. Non-routine maintenance:
 1. Bank Stabilization
 2. Sediment Removal
 3. Structural Repair and Replacement
- b. Testing and disposal of sediments; and
- c. All specifications and maintenance requirements of proprietary devices.

(4) Identification of funding source for maintenance and repairs.

(5) Execution of maintenance easements dedicated to the City to allow for safe access for inspections and maintenance; and

(6) Estimated lifespan of permanent BMPs and appropriate replacement schedule.

Activities outlined in the Operations and Maintenance Plan shall adhere to all design criteria and other policies regarding the operation and maintenance of stormwater facilities for the City.

4-2. Filing of Operations and Maintenance Plan

All permanent BMPs, including the Operations and Maintenance Plan and the locations of any required maintenance easements, are to be submitted with the site plan for approval by the City. The Operations and Maintenance Plan and execution of maintenance easements must be completed and approved prior to the final acceptance of the project.

Once approved, the Operations and Maintenance Plan, along with any maintenance easements, must be filed with the County Deed Office of the county in which the property is located. The Operations and Maintenance Plan is to be permanently linked to the deed of the land, regardless of changes in ownership.

The owner of the property holds the ultimate responsibility for ensuring that this plan is properly filed and followed throughout the lifespan of the permanent BMPs.

4-3. Transfer of Ownership

Cleaning and repair of permanent BMPs should be completed before transfer of ownership.

SECTION 5. Recourse for Noncompliance; Penalty

5-1. Inspection Violations

If the owner fails to submit completed inspection forms to the Director of Public Works within the time frame specified for the property, the City will issue a letter requesting that the inspections be completed within sixty (60) days from the postmarked date.

If the inspection has not been completed at this time, the city may levy a fine not to exceed \$500 per incident/per day, in accordance with the Section 1.01.009 of the Code of Ordinances.

5-2. Maintenance Violations

If City inspection personnel discover malfunctioning or improperly maintained stormwater facilities, or facilities that have become a danger to public safety, the owner of the property will receive a notice detailing the violation. The notice of violation shall contain:

- (1) The name and address of the owner;
- (2) The address (when available) or description of the structure or land upon which the violation is occurring;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to bring the facility into compliance with the City's stormwater facility BMPs;
- (5) A statement of the penalties that may be assessed according to this ordinance; and
- (6) A statement that the violation may be appealed to the City Administrator within fifteen (15) days of service of the Notice of Violation.

If the issue has not been resolved within sixty (60) days of the postmarked date, the City may issue a citation and levy a fine not to exceed \$500 per incident/per day, in accordance with Section 1.01.009 of the Code of Ordinances.

If the owner is nonresponsive or lacks means to perform the necessary repairs or maintenance, the City may conduct the work and assess the cost of the work to the owner; this cost will become a lien on the property until paid.

SECTION 6. Effective Date

This Ordinance shall be in full force and effective immediately following its passage, approval, and publication, as provided by law.

SECTION 7. Proper Notice and Meeting

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code and as required by Chapter 52 of the Texas Local Government Code.

SECTION 8. Severability

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court

of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

SECTION 9. Repealer

The provisions of this Ordinance shall be cumulative of all other ordinances, or parts of ordinances, and resolutions, or parts of resolutions governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances, or parts of ordinances, or resolutions, or parts of resolutions, inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent.

PASSED AND APPROVED by the City Council of the City of Lavon, Texas this 16th day of April 2019.


Vicki Sanson
Mayor

ATTEST:



Kim Dobbs
City Administrator/ City Secretary

