

ORDINANCE NO. 2011-444

AN ORDINANCE OF THE CITY OF CEDAR HILL, TEXAS, AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES OF THE CITY OF CEDAR HILL BY CHANGING THE TITLE OF THE CHAPTER TO “NATURAL AND ENVIRONMENTAL RESOURCES” AND BY THE ADDITION OF ARTICLE IV PROVIDING FOR RULES AND REGULATIONS GOVERNING STORM WATER MANAGEMENT, AND PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERANCE CLAUSE; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION.

WHEREAS, on September 14, 1998, the United States Environmental Protection Agency authorized the State of Texas to implement its Texas Pollutant Discharge Elimination System (TPDES) program for regulating wastewater discharges; and

WHEREAS, on December 8, 1999, the United States Environmental Protection Agency published a rule which expanded the National Pollution Discharge Elimination System (NPDES) storm water program to address storm water discharges from Municipal Separate Storm Sewer Systems (MS4s), those serving less than 100,000 persons, and construction sites that serve one to five acres; and

WHEREAS, this rule, requires prohibition of non-storm water discharges, implementation of erosion and sediment controls, and a regulatory mechanism to address post-construction runoff be adopted through ordinance; and

WHEREAS, the City of Cedar Hill, as the owner and operator of a Municipal Separate Storm Sewer System (MS4) must comply with the Texas Commission on Environmental Quality’s (TCEQs) TPDES General Permit No. TXR040000.

NOW, THEREFORE, BE IT ORDAINED by City Council of the City of Cedar Hill, Texas that:

SECTION 1. AMENDMENT OF CHAPTER 13 OF THE CODE OF ORDINANCES OF THE CITY OF CEDAR HILL, TEXAS.

Chapter 13 of the Code of Ordinances of the City of Cedar Hill, Texas, is amended to change the name of the chapter from “Natural Resources” to “Natural and Environmental Resources” and by the addition of Article V which shall read as follows:

ARTICLE V.

STORM WATER MANAGEMENT ORDINANCE

Div. I	General Provisions
Div. II	Prohibitions and Requirements
Div. III	Stormwater Discharges from Construction Activities
Div. IV	Enforcement

Division 1. General Provisions.

Section 1. Title.

This article may be known and cited as the Storm Water Management Ordinance for the City of Cedar Hill, Texas.

Section 2. Scope.

This article focuses on water quality, storm drainage, grading activities, and erosion and sediment control practices within the geographical limits of the city, including any areas subsequently annexed by the city.

Section 3. Objectives.

The objectives of this article are as follows:

- a. To maintain and improve the quality of water impacted by the storm drainage system within the City of Cedar Hill.
- b. To prevent the discharge of contaminated storm water runoff and illicit discharges from industrial, commercial, residential, and construction sites into the storm drainage system within the City of Cedar Hill.
- c. To promote public awareness of the hazards involved in the improper discharge of pollutants, such as trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment, and other pollutants into the storm drainage system.
- d. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products.

- e. To facilitate compliance with local, state and federal mandates and permits by owners of construction sites within the City of Cedar Hill.
- f. To enable the City of Cedar Hill to comply with federal, state, and local laws and regulations applicable to the National Pollutant Discharge Elimination System (NPDES) permitting requirements for storm water discharges.

Section 4. Abbreviations.

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

- a. BMP — Best Management Practices
- b. CFR — Code of Federal Regulations
- c. EPA — U.S. Environmental Protection Agency
- d. ESC — Erosion and Sediment Control
- e. MEP — Maximum Extent Practicable
- f. MS4 — Municipal Separate Storm Sewer System
- g. NOI — Notice of Intent
- h. NOT — Notice of Termination
- i. NPDES — National Pollutant Discharge Elimination System
- j. SWP3 — Storm Water Pollution Prevention Plan
- k. TAC — Texas Administrative Code
- l. TCEQ — Texas Commission on Environmental Quality
- m. TPDES — Texas Pollutant Discharge Elimination System
- n. USC — United States Code

Section 5. Definitions.

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning: “Agricultural Crop Management Practices” shall mean all land farming operations, including plowing or tilling of land for the purpose of crop production or the harvesting of crops.

“Applicant” shall mean any person who submits an application to the City for a permit pursuant to this ordinance.

“Below ground installations” shall mean any activity that causes excess sediment laden water, concrete sawing wash water, wash water or drilling mud pumped from an excavation or structure and shall be treated as sediment laden runoff for erosion control purposes.

“Best Management Practices” (BMP) shall mean the management practices and methods to control pollutants in storm water. BMP are of two types: “source controls” (nonstructural) and “treatment controls” (structural). Source controls are practices that control pollution by reducing potential pollutants at their source, before they come into contact with storm water. Treatment controls remove pollutants from storm water.

“Building” shall mean any structure used or intended for supporting or sheltering any use or occupancy.

“City” shall mean the City of Cedar Hill, Texas.

“Clearing” shall mean any act by which vegetative cover, structures or surface material is removed, including, but not limited to, root mat or topsoil removal.

“Commercial” shall mean any business, trade, industry, or other activity engaged in for profit.

“Construction Site” shall mean any location where construction activity occurs.

“Contaminated” shall mean containing harmful quantities of pollutants.

“Contractor” shall mean any person or firm performing or managing construction work at a construction site, including any construction manager, general contractor or subcontractor. Also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical or landscaping contractors, and material suppliers delivering materials to the site.

“Detention” shall mean a storm water management technique of which the primary function is to control the peak rate of storm water surface runoff by utilizing temporary storage and a controlled rate of release. This may include, but shall not be limited to, the use of reservoirs, roof tops, parking areas, holding tanks, in-pipe and in-channel storage.

“Detention facility” shall mean a temporary or permanent natural or man made structure that provides for the temporary storage of storm water runoff.

“Developer” shall mean any person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in development.

“Development” shall mean any man-made change to improved or unimproved real property including the construction or reconstruction of buildings or structures; paving, excavation, grading, filling or similar operation; or the filing and recording of a subdivision plat.

“Director” shall mean the Director of Public Works for the City of Cedar Hill or his/her authorized designee.

“Discharge” shall mean any addition or release of any pollutant, storm water or any other substance whatsoever into a storm drainage system.

“Discharger” shall mean 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.

“Easement” shall mean authorization by a property owner for use by another person or persons of all or any portion of the owner’s land for a specified purpose.

“Environmental Protection Agency” (EPA) shall mean 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 the EPA or such successor agency.

“Erosion” shall mean the wearing away of the ground surface as a result of the movement of wind, water, ice, gravity, artificial means and/or land disturbance activities.

“Erosion and Sediment Control (ESC) plan” shall mean a site plan which includes details, showing the property where land disturbing activity will take place and showing the locations and types of BMP or equivalent measures designed to control surface runoff and erosion and to retain sediment on a particular site during the period in which pre-construction and construction related land disturbances, fills, and soil storage occur, and before final improvements are completed.

“Erosion and Sediment Control Standards” shall mean the erosion and sediment control design criteria and specifications adopted in writing by the Director as part of the City Standard Construction Details.

“Excavation” shall mean any act by which soil is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed, and includes the conditions that result from that act.

“Facility” shall mean any building, structure, installation, from which there is or may be a discharge of a pollutant.

“Fertilizer” shall mean a substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily in promoting or stimulating the growth of a plant or improving the quality of a crop.

“Final Approval” shall mean completion of a project, site or building in accordance with City requirements and ordinances. In the case of a building, a Certificate of Occupancy is issued.

“Fire Protection Water” shall mean any water, including any substances or materials contained therein, used by any person to control or extinguish a fire or to inspect or test fire equipment.

“Fill” shall mean any act, by which soil is deposited, placed, pushed, pulled, or transported and includes the conditions that result from that act.

“Floodplain” shall mean the land area adjoining a river, stream, watercourse, or lake which is likely to be flooded in the event of a one-hundred-year flood, or as shown on the National Flood Insurance Program maps.

“Garbage” shall mean 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.

“Grading” shall mean any act by which soil is cleared, stripped, moved, leveled, stockpiled, or any combination thereof, and includes the conditions that result from that act.

“Grading Permit” shall mean the permit required for any land disturbance activity.

“Groundwater” shall mean any water residing below the surface of the earth or percolating into or out of the earth.

“Hazardous Substance” shall mean any substance listed in Table 302.4 of 40 CFR Part 302.

“Hazardous Waste” shall mean any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.

“Illicit Discharge” shall mean any discharge to the storm drainage system that is prohibited under this Article.

“Industrial Waste (or commercial waste)” shall mean any wastes produced as a by-product of any industrial, institutional or commercial process or operation, other than domestic sewage.

“Inspection” shall mean the periodic field review of erosion and sediment control measures as defined in the erosion and sediment control plan for the purposes of determining compliance.

“Land Disturbance” shall mean any act by which soil is moved and land changed that may result in erosion or the movement of sediments, and may include tilling, clearing, grading, excavating, stripping, stockpiling, filling and related activities, and the covering of land surfaces with an impermeable material.

“Maximum Extent Practicable (MEP)” shall mean the use or those best management practices, which, based on sound engineering and hydro-geological principles, will, to the greatest degree possible, given all relevant considerations, including technology, climate and site conditions, prohibit erosion and sedimentation from a site during and after development.

“Mobile Commercial Cosmetic Cleaning (or mobile washing)” shall mean power washing, steam cleaning and any other method of mobile cosmetic cleaning of vehicles and/or exterior surfaces engaged in for commercial purposes or related to a commercial activity.

“Municipal Separate Storm Sewer System (MS4)” shall mean the system of conveyances, including roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins and ponds owned and operated by the City and designed or used for collecting or conveying storm water, and not used for collecting or conveying sanitary sewage.

“Non-point Source” shall mean any source of any discharge of a pollutant that is not a “point-source”.

“Notice of Intent” shall mean the Notice of Intent that is required by the TCEQ or EPA to discharge storm water.

“Notice of Termination” shall mean the Notice of Termination as required by the TCEQ or EPA to request termination of coverage from a storm water permit once construction activities have ceased. “Notice of Violation” shall mean a written notice detailing any violations of this Article and any action expected of the violators.

“Off-site Borrow Area” shall mean a source of earth fill material used in the construction of embankments or other earth fill structures, that is located on another parcel of property other than where the principal construction is occurring.

“Off-Site Sedimentation” shall mean deposit of soil material beyond the limits of the property undergoing land disturbing activity or in City streets, alleys or drainage facilities in an amount sufficient to constitute a threat to public safety or comfort.

“Off-Site Spoil Area” shall mean an area on another parcel of property, other than where the principal construction is occurring, where excess earth, rock or construction material is disposed of.

“Oil” shall mean any kind of oil in any form, including, but not limited to: petroleum, fuel oil, crude oil, synthetic oil, motor oil, cooking oil, grease, sludge, oil refuse, and oil mixed with waste.

“One Hundred Year Storm” shall mean a rainstorm having a one-percent probability of occurrence in any given year.

“Operator” shall mean the person or persons associated with a large or small construction activity that meets either of the following two criteria: 1) have operational control over the site specifications; and 2) have the day-to-day operational control of those activities at the site necessary to ensure compliance with SWP3 requirements and any permit conditions.

“Owner” shall mean the person who owns a facility, part of a facility or land.

“Permanent Erosion Control Devices” shall mean devices or practices installed prior to final approval and maintained after final approval to prevent or minimize the erosion and deposit of soil materials. Such devices may include, but shall not be limited to, permanent seeding, sod, storm drain channels, channel linings, storm drain pipes, outlet velocity control structures and storm water detention structures.

“Permanent Ground Cover” shall mean permanent vegetative cover on all bare soil areas of a property not covered by a permanent structure or landscaping improvements, including but not limited to, live sod, perennial grasses or other materials which lessen runoff and soil erosion on the property.

“Permit” shall mean a written permission giving consent for a specific activity.

“Person” shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, church, governmental entity, or any other legal entity or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.

“Pesticide” shall mean a substance or mixture of substances intended to prevent, destroy, repel or migrate any pest.

“Petroleum Product” shall mean a product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel or lubricant in a motor vehicle or aircraft, including motor oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel.

“Plat” shall mean a legally recorded plan of a parcel of land indicating the location and dimension of such features as streets, alleys, lots, easements and other elements pertinent to a subdivision.

“Pollutant” shall mean any substance attributable to water pollution, including but not limited to rubbish, garbage, solid waste, litter, debris, dirt, soil, concrete, rocks, bricks, or other waste building material, yard waste, pesticides, herbicides, fertilizers, pet waste, animal waste, domestic sewage, industrial waste, sanitary sewage, wastewater, septic tank waste, mechanical fluid, oil, motor oil, used oil, grease, petroleum products, antifreeze, surfactants, solvents, detergents, cleaning agents, paint, heavy metals, toxins, household hazardous waste, small quantity generator waste, hazardous substances, hazardous waste, soil and sediment.

“Pollution” shall mean the alteration of the physical, thermal, chemical, or biological quality of, any water that renders the water harmful, detrimental, or injurious to humans, animal life, plant life, property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

“Private Storm Drainage System” shall mean all privately or publicly owned ground, surfaces, structures or systems, excluding the MS4, that contribute to or convey storm water, including but not limited to roofs, gutters, downspouts, lawns, driveways, pavement, roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins, ponds, draws, swales, streams.

“Project” shall mean any man-made change involving the construction, reconstruction, maintenance or improvement of real property and structures.

“Public Owned Improvements” shall mean improvements such as (but not limited to) concrete channel liner, improved channel, pipes of various sizes and materials, box culverts and miscellaneous other concrete structures all on public property or in a public easement.

“Public Property” shall mean property owned by the City, State, or Federal government or dedicated to such agency.

“Public Storm Drainage System” shall mean any underground-enclosed pipe system and/or improved channel that is on public property or within a public easement.

“Qualified Person” shall mean a person who possesses the required certification, license, or appropriate competence, skills, and ability as demonstrated by sufficient education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements and generally accepted industry standards for such activity.

“Release” shall mean to dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose or otherwise introduce into the storm drainage system.

“Responsible Party (RP)” shall mean a business entity, utility agency, developer, property owner, contractor or holder of a building permit who is required to comply with the terms of this Article.

“Sampling” shall mean the procedures associated with the determination of settleable solids and may include suspended solids in a discharge sample of water.

“Sediment” shall mean any solid material, mineral or organic, that has been deposited in water, is in suspension in water, is being transported or has been removed from its site of origin by wind, water, or gravity.

“Sediment Control” shall mean measures that prevent sediment from leaving the site.

“Site” shall mean a parcel of land, or a combination of parcels contiguous on which grading is performed as a single unified operation.

“Small Quantity Generator Waste” shall mean any hazardous waste generated by a small quantity generator.

“Soil” shall mean the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

“Soil Storage” shall mean the activity of depositing soil or other earth materials for later use or disposal.

“Solid Waste” shall mean any garbage, rubbish, refuse and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, construction, mining or agricultural operations, and residential, community and institutional activities.

“Stabilization” shall mean practices that prevent exposed soil from eroding.

“Staging Area” shall mean an on-site or off-site location used by a Contractor to store materials for a project, to assemble portions of equipment or structures, to store equipment or machinery, to park vehicles, or for other construction related uses.

“State” shall mean The State of Texas.

“Stop Work Order” shall mean the suspension of all City permits with no approvals or inspections of work for the site or project being performed.

“Storm Drainage System” shall mean all surfaces, structures and systems that contribute to or convey storm water, including private drainage systems, the MS4, surface water, groundwater, Surface Water in the State, and Waters of the United States.

“Storm Water” shall mean runoff resulting from precipitation.

“Storm Water Pollution Prevention Plan (SWP3)” shall mean a document that is required by a permit to discharge storm water associated with industrial activity, including construction, and describes the BMP to be implemented at a site, to reduce to the maximum extent practicable the discharge of pollutants.

“Storm Water Runoff” shall mean water resulting from precipitation which is not absorbed by the soil, evaporated into the atmosphere, or entrapped by ground surface depressions and vegetation, and which flows over the ground surface.

“Structure” shall mean that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

“Subdivision Development” shall mean activities associated with the platting of any parcel of land into two or more lots and includes all construction activity taking place thereon.

“Surface Water in the State” shall mean lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water-courses and bodies of surface water, that are subject to the jurisdiction of the state; except that waters in treatment systems which are authorized by state or federal law, regulation, or permit, and which are created for the purpose of waste treatment are not considered to be water in the state.

“Temporary Erosion Control Devices” shall mean devices installed or practices implemented and maintained during land disturbing activities to prevent, minimize or control the erosion and deposit of soil materials.

“These Regulations” shall mean the Ordinance in its entirety.

“TPDES” shall mean the program delegated to the State of Texas by the EPA pursuant to 33 USC §1342(b).

“TPDES Permit” shall mean a permit issued by TCEQ, as the permitting agency, that authorizes the discharge of pollutants to surface water in the state.

“Uncontaminated” shall mean not containing harmful quantities of pollutants.

“Used Oil (or Used Motor Oil)” shall mean any 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.

“Utility Agency” shall mean private utility companies, contractors working for private utility companies and are engaged in construction or maintenance of utility distribution lines and services, including water, sanitary sewer, storm sewer, electric, gas, telephone, television and communication services.

“Vegetative Cover” shall mean any grasses, shrubs, trees and other vegetation that hold and stabilize soils.

“Water Quality Standard” shall mean the narrative and numerical criteria designation set for a body or segment of surface water in the State for desirable uses deemed by State or Federal regulatory standards to be necessary to protect those uses.

“Waters of the United States” shall mean 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 the flow of the tide; all interstate waters, including interstate wetlands; all other Waters of the United States, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as Waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of “Waters of the United States” at 40 CFR Section 122.2; but not including waters in the treatment systems which are authorized by state or federal law, regulation, or permit, and which are created for the purpose of waste treatment.

“Yard Waste” shall mean leaves, grass clippings, tree limbs, brush, soil, rocks or debris that result from landscaping, gardening, yard maintenance or land clearing operations.

Section 7. Public Responsibilities.

The City’s authorized representatives are authorized to administer, implement, and enforce the provisions of this Article.

Operation and Maintenance of Public Owned Facilities:

- a. The City’s Department of Public Works shall be responsible for maintaining the conveyance of public runoff within the city owned public storm drainage system either improved or unimproved, located within public right-of-way or city owned property. It is the responsibility of the property owners to mow and keep these drainage ditches clean. Further, the property owners are prohibited from modifying or adding any fill material to the drainage ditches. The City reserves the right to take corrective action regarding any obstruction which may impede the appropriate flow of storm water runoff. Maintenance of public owned drainage systems located

on private property within public easements shall be limited to the public owned improvements such as concrete structures, pipe systems, and improved channels in order to convey adequate runoff within the public drainage easement.

- b. It shall be the responsibility of the City to maintain the free flow and conveyance of storm water within the MS4.

Section 8. Private Responsibilities.

- a. Maintenance and operation of a private storm drainage system is the responsibility of the owner of the property. Each developer or owner of land within the City has the responsibility to provide and maintain approved storm water runoff management facilities to ensure the adequate drainage and control of storm water on the developer's or owner's property both during and after construction of such facilities.
- b. Each developer or landowner has the responsibility and duty before, during and after construction to properly operate and maintain any on-site storm water runoff control facility. This responsibility shall remain with the owner of the property on which the facility is located. This responsibility shall be passed on to subsequent owners through appropriate covenants in deeds or other documents of conveyance. This maintenance shall include, keeping these facilities free and clear of weeds, brush and vegetation, removal of debris or any other waste material that might impede or hinder the facility's intended use, erosion repair, and removal of silt and maintenance of structural facilities.
- c. The City may require the owner of detention basins and associated facilities to furnish certification by a professional engineer licensed in the State of Texas that the detention basin has the storage capacity designated by the plan approving its construction and that all associated facilities including inlet and outlet structures are fully functional.
- d. Each property owner or resident adjacent to a natural drainage channel or creek not maintained by the City shall maintain the free flow character by prompt removal of debris, overgrowth or downed trees and limbs and unapproved structures. Property owners shall cooperate by overseeing their properties without encouragement of the City. In the event the City, in accordance with City codes and ordinances issues an Official Notice, the property owner shall comply and may request the City's assistance as outlined herein.
- e. If the grading of a swale is required for the conveyance of the 100-year flow, plan approval will be required to dedicate necessary easements. The maintenance of swales along property lines shall be the responsibility of the property owner.

Division 2. Prohibitions and Requirements.

Section 1. Prohibitions.

- a. No person shall knowingly release or cause to be released into the storm drainage system any discharge that is not composed entirely of uncontaminated storm water, except as allowed in Section 2. Common storm water contaminants include trash, debris, concrete, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, and sediment.
- b. Any discharge shall be prohibited by this Section if the discharge is determined to be a source of pollutants to the storm drainage system.
- c. The existence, construction, use or maintenance of illicit connections to the storm drain system is prohibited.
- d. No person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste to the storm drainage system, or allow such a connection to continue.
- e. No person shall knowingly destroy or interfere with BMP implemented pursuant to this Article.

Section 2. Exemptions.

The following non-storm water discharges shall be deemed exempt and allowable unless determined to be a source of pollutants to the storm drainage system:

- a. Uncontaminated waterline flushing and other occasional discharges from potable water sources;
- b. Occasional uncontaminated discharges from landscape irrigation or lawn watering;
- c. Occasional discharge from the non-commercial washing of vehicles;
- d. Un-contaminated discharges from foundation, footing or crawl space drains, sump pumps and air conditioning condensation drains, rising ground water and springs;
- e. Diverted stream flows and natural riparian habitat or wetland flows;
- f. Discharges or flows from fire fighting activities (fire fighting activities do not include washing of trucks, run-off water from training activities, test water from fire suppression systems, and similar activities);
- g. Occasional discharge from non-commercial dechlorinated swimming pools.

- h. Occasional discharge from pavement and exterior building wash water conducted without the use of detergents or other chemicals.
- i. Non-storm water discharges that are specifically listed in the TPDES Multi Sector General Permit (MSGP) or the TPDES Construction General Permit (CGP);
- j. Other similar occasional incidental non-storm water discharges, unless the TCEQ develops permits or regulations addressing these discharges.

Section 3. Requirements Applicable to Certain Dischargers.

- a. **Private Drainage System Maintenance.** Owners of private drainage systems shall maintain the system to prevent, to the MEP, the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.
- b. **Minimization of Irrigation Runoff.** A discharge of irrigation water that is of sufficient quantity to cause a concentrated flow in the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.
- c. **Cleaning of Paved Surfaces.** The owner of any paved parking lot, street or drive shall clean the pavement, as required, to prevent the buildup and discharge of pollutants. The visible buildup of mechanical fluid, waste materials, sediment or debris is a violation of this ordinance. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Article. This section does not apply to pollutants discharged from construction activities regulated by Division 3 of this Article.
- d. **Maintenance of Unpaved Surfaces.** The owner of any unpaved parking lot, street or drive shall maintain the unpaved surfaces, as required, to prevent the buildup and discharge of pollutants. The visible buildup of mechanical fluid, waste materials, sediment or debris is a violation of this ordinance. Unpaved surfaces shall be maintained by adding gravel as necessary to prevent the off-site tracking of sediment. Excessive sediment tracked onto public streets shall be removed immediately.
- e. **Maintenance of Equipment.** Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment shall be maintained to reduce leaking fluids.
- f. **Materials Storage.** In addition to other requirements of this regulation, materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is prohibited.

- g. Pesticides, Herbicides and Fertilizers. Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws.
- h. Prohibition on Use of Pesticides, Fertilizers, and Fungicides Banned from Manufacture. Use of any pesticide, herbicide or fungicide, the manufacture of which has been either voluntarily discontinued or prohibited by the EPA, or any Federal, State or City regulation, is strictly prohibited.
- i. Maintenance of Open Drainage Channel Systems. Property owners, through which an open drainage channel passes, shall keep and maintain that part of the drainage channel free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or retard the flow of water through the drainage channel. In addition, the owner or occupant shall maintain existing privately owned structures adjacent to a drainage channel, so that these structures will not become a hazard to the use, proper function, or integrity of the drainage system.

Section 4. Release Reporting and Cleanup.

- a. Any person responsible for a known or suspected release of materials, which results in or may result in an illegal discharge to the storm drainage system, shall take necessary steps to ensure the discovery, containment, abatement and cleanup of the release. In the event of such a release of a hazardous material, said person shall comply with State, Federal, and local laws requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release. In the event of a release of non-hazardous materials, said person shall notify the Director no later than 5:00 p.m. of the next business day.

Section 5. Required Best Management Practices.

- a. The owner of any business activity, operation, or facility that may cause a discharge of pollutants to the storm drainage system shall implement and maintain at their own expense, BMP as necessary or required by the City to prevent the discharge of pollutants to the storm drainage system.
- b. Typical BMP's for the City of Cedar Hill are located and available in the most current version of the City of Cedar Hill Manual for General Design Standards for Paving, Drainage Systems, Water and Sanitary Sewer Lines, City Standard Construction Details and the North Central Texas Council of Governments (NCTCOG) Integrated Storm Water Management (iSWM) Technical Manual.

Division 3. Storm Water Discharges from Construction Activities.

Section 1. General Requirements for Construction Sites.

- a. Compliance Responsibility. The operator of a site upon which construction activity is occurring shall be responsible for compliance with all city, local, State and Federal laws requirements and regulations including the TPDES Construction General Permit (CGP).
- b. Waste Disposal. Solid waste, industrial waste, yard waste and any other pollutants or waste on any construction site shall be controlled through the use of BMP. Waste or recycling containers shall be provided and maintained by the operator or contractor on construction sites where there is the potential for release of waste. Waste shall be contained in such a manner as to ensure that it will not blow, leak, wash or otherwise be released from the site.
- c. Cleaning of Vehicles and Equipment. Ready-mixed concrete, or any materials resulting from the cleaning of vehicles or equipment containing or used in transporting or applying ready-mixed concrete or asphalt, shall be contained on construction sites for proper disposal. Release of these materials to the storm drainage system is prohibited.
- d. The most current version of the Design Manual for the City of Cedar Hill. Erosion and Sediment control methods shall be implemented to prevent, to the MEP, sediment runoff from construction sites in conformance with the most current version of the Manual for General Design Standards for Pavement, Drainage System, and Water and Sewer Lines.
- e. Single Family Permit. Any person who shall commence any work for which a single family permit is required shall post a copy of the Building Inspections erosion control code compliance placard prior to the commencement of work and maintain erosion control BMP in accordance with the placard at all times.
- f. Sediment Tracking. Disturbed soil and construction site entrances shall be managed to prevent sediment tracked onto public streets and shall be removed immediately.
- g. End of Construction Activities. Upon completion of construction activities on any site, the operator of the property is responsible for continued compliance with the requirements of this Ordinance. In the course of maintenance, reconstruction or any other construction activity on the site, the operator shall remove and properly dispose of temporary erosion controls once stabilization of disturbed areas has been established.
- h. Permanent Erosion Control. In the course of maintenance, reconstruction or any other construction activities on the site, erosion control shall be the responsibility of

the property owner. Should the operator of the construction activities fail to complete or remove temporary erosion controls, the responsibility of removing and properly disposing of the erosion controls would then fall to the property owner

Section 2. Construction Sites Requiring an Approved Storm Water Pollution Prevention Plan (SWP3).

- a. This section applies to construction sites excluding subdivision developments:
 - (1) Where construction activity will disturb soil or remove vegetative cover on one (1) or more acres of land during the life of the project, a SWP3 must be developed, and an approved Notice of Intent (N.O.I.) or Site Notice must be submitted to the Public Works Director prior to receiving a building permit.
 - (2) A SWP3 must be developed and BMP implemented by the operator.
- b. This section applies to subdivision development where development will disturb soil or remove vegetative cover on one (1) or more acres of land during the life of the development of the project. A SWP3 for the project must be prepared, implemented, and terminated by the operator in the following manner:
 - (1) At a minimum, the area disturbed shall be assumed to include the entire platted area unless otherwise indicated on the approved construction plans.
 - (2) A SWP3 must be developed, and an approved N.O.I. for each operator must be submitted to the Director.
 - (3) The preparation and implementation of the SWP3 must comply with the TCEQ Construction General Permit for construction sites located in the State.
 - (4) The subdivision operator bears the responsibility for implementation of the approved SWP3 for construction activity within the development.
 - (5) A Notice of Termination (N.O.T.) must be submitted to the City within thirty days, after final stabilization and removal of temporary erosion controls or another permitted operator has assumed control over the site.

Section 3. Implementation.

- a. A copy of the TCEQ Construction Site Notice and NOI shall be located on a sign board and visible from the construction site entrance.
- b. A current copy of the SWP3 shall be maintained and updated on site at all times.
- c. BMP shall be installed and maintained by qualified persons and they shall be prepared to respond to specific BMP deficiencies found through inspection within twenty-four (24) hours.

- d. The operator shall inspect BMP at least once every fourteen (14) calendar days and within twenty-four (24) hours after a rainfall of one-half of an inch or more, as measured at the site or generally reported in the area. The operator shall be required to keep a log of inspection activity on site at all times in accordance with the TCEQ Construction General Permit.
- e. Any inspections performed by the owner, operator or by City personnel, may necessitate modifications to the SWP3 in order for the SWP3 or BMP to comply with the objectives of this Article. The operator shall make required modifications and be completed within two (2) days of the referenced inspection, and shall be recorded in the operator's copy of the SWP3.

Section 4. Requirements for Utility Construction.

- a. Utility agencies shall be responsible for compliance with the Right-of-Way Management requirements in accordance with the City's Code of Ordinances.
- b. As part of the Right-of-Way Permit and site plans, utility agencies shall develop and implement BMP to prevent, to the MEP, the discharge of pollutants from any site within the City where utility construction is occurring. In addition, the Utility agencies must re-establish vegetation and drainage as equal to or better than pre-construction conditions. The City may require specific BMP for utility construction activity.
- c. Utility agencies shall protect existing BMP and immediately repair or replace any BMP disturbed during utility construction.
- d. No redirecting of stormwater runoff is allowed unless otherwise determined by the Director or his/her authorized designee. Utility agencies shall implement BMP to prevent the release of sediment from utility construction sites. Disturbed areas shall be minimized. Disturbed soil and construction site entrances shall be managed to prevent sediment tracking. Sediment tracked onto public streets shall be removed immediately.

Division 4. Enforcement.

Section 1. Submission from the General Public.

Members of the General Public may submit information regarding unauthorized discharges pertaining to this Article to the City. Authorized personnel will consider these submissions as they pertain to the implementation and enforcement of this Article and will provide written or verbal response to the person submitting the information.

Section 2. Authorized Personnel.

The following personnel employed by the City shall have the power to issue notices of violation, fines, and implement other enforcement actions under this Article:

- (1) Authorized personnel under the supervision of the Director.
- (2) Authorized personnel under the supervision of the Director of Code Enforcement.
- (3) Police and Fire Department.

Section 3. Right of Entry and Sampling.

- a. Whenever the authorized personnel has cause to believe that there exists, or potentially exists, in or upon any premises, any condition that constitutes a violation of this Article, the authorized personnel shall have the right to enter the premises at any time to inspect and verify the complaint with all requirements of this Article.
- b. Authorized personnel shall have the right to enter property and conduct sampling of any discharges to the storm drainage system.

Section 4. Notice of Violation.

- a. Whenever an authorized person determines that a person has violated a provision of this Article, or failed to meet a requirement of this Article, the enforcement person may order compliance by verbal and/or written notice of violation to the responsible person.
- b. The written Notice of Violation shall identify:
 - (1) The name of the party believed to be responsible.
 - (2) The date and location of the violation.
 - (3) A description of the violation.

- (4) Actions that must be taken by the responsible party to remedy the violation.
 - (5) The deadline within which the required actions must be completed.
 - (6) Enforcement actions that may be taken by the City.
- c. Any person receiving a notice of violation may appeal the notice within 10 (ten) days. The authorized person's director will affirm, modify or rescind the notice in writing, within 10 days of the date of the appeal.
 - d. Any person aggrieved by the decision of the Director may appeal the decision to the City Council by submitting a written appeal to the City within 10 days of the date of the date of the Director's written decision. A hearing on the appeal will be scheduled before the City Council. The decision of the City Council shall be final.

Section 5. Action without Prior Notice.

Any person who violates a prohibition or fails to meet a requirement of this Article will be subject, without prior notice, to one or more of the enforcement actions outlined in section 6.

Section 6. Enforcement Actions.

- a. Any person who fails to comply with any provision of this Article or fails to comply with an appeal decision of the City Council will be subject to one or more of the following enforcement actions:
 - (1) Stop Work Order. The Director may issue a stop work order to the operator and contractors on a construction site, by posting the order at the construction site and distributing the order to City departments whose decisions may affect any activity at the site. Unless express written exception is made, the stop work order shall prohibit any further construction activity at the site and shall bar any further inspection or approval necessary to commence or continue construction or to assume occupancy at the site.
 - (2) Abatement of an Illicit Discharge Connection. The Director may order City representatives to terminate an illicit discharge connection to the municipal separate storm sewer system (MS4). Any expense related to such abatement by City representatives shall be fully reimbursed by the property owner.
 - (3) Abatement of a Violation on Private Property. When a property owner is not available, not able or not willing to correct a violation, the Director may order City representatives to enter private property to take measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow City representatives to enter upon the premises for these purposes. Any expense related to such abatement by City representatives shall be fully reimbursed by the property owner.

- (4) Recovery of Costs. Within 30 days after abatement by City representatives, the Director shall notify the property owner of the costs of abatement, including administrative costs, and the deadline for payment. The property owner may protest the assessment before the City Council. The written protest must be received by the City Managers Office within 10 days of the date of the notification. A hearing on the matter will be scheduled before the City Council. The decision of the City Council shall be final. If the amount due is not paid within the protest period or within 10 (ten) days of the decision of the City Council, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Clerk.
- (5) Termination or Denial of Utility Services. After lawful notice to the customer and property owner concerning the proposed disconnection, the Director shall have the authority to order the disconnection of City water, sanitary sewer and/or sanitation services.
- b. Criminal Penalties. The violation of any provision of this Article shall be deemed a municipal offense. Any person violating this Article shall, upon an adjudication of guilt or a plea of no contest, be fined a minimum of \$500.00 to a maximum of \$2,000.00.
- c. Other Legal Action. Notwithstanding any other remedies or procedures available to the City, if any person discharges into the storm drainage system in a manner that is contrary to the provisions of this Article, the City Attorney may commence an action for appropriate legal and equitable relief.

SECTION 2. SAVINGS CLAUSE

In the event that any other Ordinance of the City of Cedar Hill, Texas, heretofore enacted is found to conflict with the provisions of the Ordinance, this Ordinance shall prevail.

SECTION 3. SEVERANCE CLAUSE

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. INCORPORATION INTO CODE OF ORDINANCES

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances, City of Cedar Hill, Texas, as an addition, amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

SECTION 5 EFFECTIVE DATE

Because of the nature of interest and safeguard sought to be protected by this Ordinance and in the interest of health, safety and welfare of the citizens of the City of Cedar Hill, Texas, this Ordinance shall take effect immediately after passage, approval and publication, as required by law.

SECTION 6 PUBLICATION

The City Secretary is hereby authorized and directed to cause publication of the descriptive caption and penalty clause hereof as an alternative method of publication provided by law.

PASSED, ADOPTED AND APPROVED by the City Council of Cedar Hill, Texas on this the _____ day of _____, 2011.

Rob Franke, Mayor

ATTEST:

Lyn Hill, City Secretary

APPROVED AS TO FORM:

Ron G. MacFarlane, Jr., City Attorney