

ORDINANCE NO. 1268

AN ORDINANCE AMENDING CHAPTER 9.5 "ENVIRONMENT," ARTICLE II "STORM DRAINAGE," CREATING A NEW DIVISION 10, "POST CONSTRUCTION STORMWATER MANAGEMENT"; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Southlake is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City of Southlake has adopted comprehensive environmental regulations as allowed and required by law, particularly related to Stormwater drainage; and

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) required small Municipal Separate Storm Sewer Systems (MS4) to execute a Notice of Intent (NOI) for stormwater discharges under the Texas Pollutant Discharge Elimination System (TPDES) Phase II MS4 General Permit (TXR040000); and,

WHEREAS, a Stormwater Management Plan (SWMP) for the City of Southlake was developed as required to accompany the NOI; and,

WHEREAS, the SWMP requires the preparation and adoption of a Post-Construction Stormwater Management ordinance.

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

Section 1.

The Code of Ordinances of the City of Southlake Chapter 9.5 "Environment," Article II "Storm Drainage Policy," is hereby amended to create a new Division 10 "Post-construction Stormwater Maintenance," to read as follows:

Sec. 9.5.188. - Background

Findings of Fact

The City finds that construction activities and land development or redevelopment 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.

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.

Sec. 9.5.189. - 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.

Development: Any activity that requires the submission of a subdivision plat, development plan, or the securing of a building permit. (see also redevelopment definition)

Director: The City staff member with the title of Public Works Director, or their authorized agent.

Illegal Discharge or Illegal Discharge Deficiency: Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in subsection 9.5-503(b) of Chapter 9.5, Article IX of the City of Southlake Code of Ordinances.

Maintenance Agreement: a formal contract between the City and a property owner to guarantee long-term maintenance of permanent, physical BMPs. The Maintenance Agreement includes an Operations and Maintenance Plan as further described in this document.

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: activities and operations performed after the Notice of Termination (NOT) for a development or redevelopment project has been filed and approved.

Public Infrastructure: Facilities owned and maintained by the City, including, but not limited to, roads, sidewalks, drainage systems, water utility facilities, sewer utility facilities, streetlights, signals, city-owned parkland or buildings.

Redevelopment: alterations of a property that change the “footprint” of a site or building in such a way that there is disturbance of equal to or greater than one (1) acre of land. This term does not include such activities as exterior remodeling, routine maintenance activities, and linear utility installation.

Small Municipal Separate Storm Sewer System (MS4): a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- (a) Owned or operated by the U.S., state, city, town, borough, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under CWA § 208;
- (b) Designed or used for collecting or conveying stormwater;
- (c) Which is not a combined sewer;
- (d) Which is not part of a publicly owned treatment work (POTW) as defined in 40 CFR § 122.2; and

- (e) Which was not previously regulated under a National Pollutant Discharge Elimination System (NPDES) or a Texas Pollutant Discharge Elimination System (TPDES) Small MS4 General Permit TPDES General Permit TXR040000 Part I Page 11 individual permit as a medium or large municipal separate storm sewer system, as defined in 40 CFR §§122.26(b)(4) and (b)(7). This term includes systems similar to separate storm sewer systems at military bases, large hospitals or prison complexes, and highways and other thoroughfares.

This term does not include separate storm sewers in very discrete areas, such as individual buildings. For the purpose of this Ordinance, a very discrete system also includes storm drains associated with certain municipal offices and education facilities serving a nonresidential population, where those storm drains do not function as a system, and where the buildings are not physically interconnected to a small MS4 that is also operated by that public entity

Stormwater Control Measure or Best Management Practice (BMP): 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.

Stormwater Facility: any physical facility built to control stormwater runoff in compliance with the City's Storm Drainage Policy (Chapter 9.5, Article II of the City of Southlake Code of Ordinances).

Sec. 9.5.190. - Minimum Stormwater Control Standards

All permanent BMPs must be designed to meet the criteria and specifications of the City's Storm Drainage Policy (Chapter 9.5, Article II of the City of Southlake Code of Ordinances). To the greatest extent practicable, stormwater runoff quantity after development or redevelopment of the property should not exceed pre-development conditions and stormwater runoff quality shall meet the minimum water quality performance standards.

Sec. 9.5.191. - Maintenance Requirements

Within the City of Southlake, "Stormwater Facility" generally refers to stormwater detention/retention ponds, though other types of facilities may be installed. This ordinance and the associated maintenance agreement largely address detention/retention facilities, but the agreement may be modified to address maintenance of other facilities, including, but not limited to underground detention facilities, earthen channels, natural channels/creeks, bar ditches and associated culverts, or other stormwater facilities (concrete channels, flumes, inlets, pipes,

manholes) located on private property. See section 9.5-182 of the City's Storm Drainage Policy for information related to public and private maintenance of drainage facilities.

A Stormwater Facility Maintenance Agreement shall be filed with the County for any privately maintained stormwater facilities prior to City acceptance.

Sec. 9.5.192. - Inspection Requirements

The Stormwater Facility Maintenance Agreement contains maintenance logs and inspection reports with requirements for monthly, semiannual, and annual inspection tasks.

- (1) Monthly Maintenance and Inspection
 - a. Mowing and grass clipping removal
 - b. Trash and debris removal
 - c. General condition inspection and correction as needed
- (2) Semiannual Maintenance and Inspection
 - a. Irrigation system operation verification
 - b. Siltation observations and removal
 - c. Erosion observation and repair
 - d. Vegetation confirmation and replanting
 - e. Condition inspection for trash guards
- (3) Annual Maintenance and Inspection

Same as semiannual inspection tasks plus the following:

 - a. Condition inspection of facility structures such as intake pipes, weirs, outfall pipes, flumes, riprap, or other permanent improvements
 - b. Observation of any berm embankment settlement
 - c. Inspection of pond bottom for packing/sealing and aeration as needed
 - d. Inspection for evidence of animals or aquatic life and removal as necessary

Sec. 9.5.193. - Maintenance Agreement And Operations And Maintenance Plan

(1) Maintenance Agreement

The City has a standard Maintenance Agreement form that must be used for new development and redevelopment when required. The Maintenance Agreement includes standard language related to the responsibilities of the owner and the role of the City. In addition, it contains information about the site and an Operations and Maintenance Plan.

(2) 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:

- a. Identification of position title within the owner's organization responsible for all tasks in the plan;
 - i. 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.
 - ii. Adequate drainage easements shall be provided for all stormwater facilities per the City's Storm Drainage Policy (Chapter 9.5, Article II of the City of Southlake Code of Ordinances).
 - iii. The City may, if needed, enter into interagency or interlocal agreements for maintenance purposes.
- b. Inspection requirements;
 - i. Self-inspection: The maintenance plan shall require self-inspection of the stormwater management facilities, in accordance with the Operation and Maintenance Plan (Exhibit A) for the facility that has been filed with the County. Self-inspection forms must be completed and submitted to the Environmental Services Division of the Public Works Department on an annual basis. Inspection reports and maintenance logs shall be submitted by April 30 of each year. If the annual due date falls on a weekend, the due date shall be the first Monday following. The first annual inspection report under this Ordinance is due April 30, 2023.
 - ii. City inspection: The City reserves the right to inspect all stormwater facilities for compliance with maintenance guidelines on an as-needed basis.
- c. Maintenance requirements;
 - i. Description of maintenance tasks and anticipated frequency, including both routine and non-routine maintenance;
 - ii. Disposal of sediments; and
 - iii. All specifications and maintenance requirements of proprietary devices.
- d. Identification of funding source for maintenance and repairs;
- e. Execution of maintenance easements dedicated to the City to allow for safe access for inspections and maintenance; and

- f. 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. Inspection and Maintenance requirements may be altered or increased if the City deems it necessary to maintain the proper function of the stormwater facility.

(3) Filing of Stormwater Facility Maintenance Agreement

- a. All permanent BMPs, including the Maintenance Agreement and the locations of any required drainage and maintenance easements, are to be submitted with the construction plans and required documents for approval by the Public Works Department. The Maintenance Agreement must be completed and approved prior to the final acceptance of the project by the City.
- b. Once approved, the Maintenance Agreement, along with any maintenance easements, must be filed with the County Deed Office of the county in which the property is located. The Maintenance Agreement is to be permanently linked to the deed of the land, regardless of changes in ownership.
- c. The owner of the property holds the ultimate responsibility for ensuring that this Maintenance Agreement is properly filed and followed throughout the lifespan of the permanent BMPs.

(4) Transfer of Ownership

Cleaning and repair of permanent BMPs should be completed before transfer of ownership. The City reserves the right to inspect all post-construction BMPs prior to transfer of ownership. Any changes in ownership should be recorded and submitted in writing to the City's Environmental Services Division and shall include new Owner contact information and a signature statement acknowledging transfer of maintenance responsibilities.

Sec. 9.5.194. - Enforcement

- (1) If an entity does not comply with requirements of this article the responsible person will be notified in writing of such deficiencies by the City.
- (2) Upon receipt of such notice, the responsible person will have 24 hours to correct such illegal discharge deficiencies, seven days to correct erosion control deficiencies, and 30 days to correct maintenance of stormwater facility deficiencies. The Public Works Director may shorten the allowable time to correct deficiencies if they deem the deficiencies to be an immediate threat to the public or the environment.

- (3) After proper notice, and if the responsible person fails to make the repairs or perform the maintenance, the City may have such work performed and assess the person(s) responsible for the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property or prorated against the beneficial users of the property.
- (4) Easements and agreements recorded upon the applicant's property shall provide mechanisms for the establishment of a lien by the City for any and all costs incurred by the City pursuant to this section to aid in the efficient and cost-effective collection of sums so expended, including, but not limited to, attorneys' fees associated with collection.

Sec. 9.5.195. - Penalties

- (1) Any person violating any of the provisions of this division shall be guilty of a misdemeanor, and upon final conviction thereof shall be fined a sum not to exceed \$2,000.00 for each offense.
- (2) Each day such violation continues to exist shall constitute a separate offense.
- (3) But in case any person violates any of the provisions of this article or fails to comply therewith, the City of Southlake, in addition to imposing the penalties above provided, may institute any appropriate action or proceedings in court to prevent, restrain, correct, or abate or to prevent any illegal act, conduct, business or use in or about any land; and the definition of any violation of the terms of this article as a misdemeanor shall not preclude the City from invoking the civil remedies given it by law in such cases, but same shall be cumulative of and in addition to the penalties prescribed for such violation.

Sec. 9.5.196. - Emergency Suspension of Utility Service and MS4 Access

- (1) The City may, without prior notice, suspend water service, sanitary sewer service, and/or MS4 discharge access to a person discharging to the MS4, waters of the United States, or publicly owned treatment works (POTW) when such suspension has been determined by the Public Works Director to be necessary to stop an actual or threatened discharge which:
 - a. Presents or may present imminent and substantial danger to the environment or to the health or welfare of persons; or
 - b. Presents or may present imminent and substantial danger to the MS4 or waters of the United States.
 - c. Presents or may present imminent and substantial danger to Public Infrastructure.

- (2) As soon as is practicable after the suspension of service or MS4 discharge access, the Director shall notify the violator of the suspension in person or by certified mail, return receipt requested, and shall order the violator to cease the discharge immediately. When time permits, the Director should also attempt to notify the violator prior to suspending service or access.
- (3) If the violator fails to comply with an order issued under subsection (2), the Director, may take such steps as the Director deems necessary to prevent or minimize damage to the MS4 or waters of the United States, to prevent or minimize danger to persons, and to prevent or minimize damage to public infrastructure.
- (4) The City shall not reinstate suspended services or MS4 access to the violator until:
 - a. The violator presents proof, satisfactory to the Director, that the noncomplying discharge cause has been determined, been eliminated and corrected;
 - b. The violator pays the City for all costs the City incurred in responding to abating, and remediating the discharge or threatened discharge; and
 - c. The violator pays the City for all costs the City will incur in reinstating service or access.
- (5) A violator whose service or access has been suspended may appeal such enforcement action in accordance with Section 9.5.198.
- (6) The remedies provided by this section are in addition to any other remedies set out in this article. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.
- (7) A person commits an offense if the person reinstates water service, sanitary sewer service, and or MS4 access to premises terminated pursuant to subsection (1), without the prior approval of the Director.

Sec. 9.5.197. - Non-Emergency Suspension of Utility Service And MS4 Access

- (1) The City may terminate the City-provided water supply, sanitary sewer connection, and/or MS4 access any person discharging to the MS4 in violation of this article, if such termination would abate or reduce the illegal discharge.
- (2) The Director will notify a violator of the proposed termination of its water supply, sanitary sewer connection, and/or MS4 access.

- (3) A violator whose service or access has been suspended may appeal such enforcement action in accordance with Section 9.5.198.
- (4) The City shall not reinstate suspended services or MS4 access to the discharger until:
 - a. The violator presents proof, satisfactory to the Director, that the noncomplying discharge has been determined, been eliminated and corrected;
 - b. The violator pays the City for all costs the City will incur in reinstating service or MS4 access; and
 - c. The violator pays the City for all costs the City will incur in reinstating service or access.
- (5) The remedies provided by this section are in addition to any other remedies set out in this article. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.
- (6) A person commits an offense if the person reinstates water service, sanitary sewer service, and or MS4 access to premises terminated pursuant to subsection (1), without the prior approval of the Director.

Sec. 9.5.198. - Appeals

- (1) All rulings, requirements, decisions, or interpretations of the Public Works Director shall be final and binding upon all parties thereto unless appealed to the City Manager.
- (2) Any person aggrieved thereby may submit an appeal by filing a written notice of appeal in the office of the City Secretary within ten calendar days from the date of the action complained of; all notice of appeal shall specify the grounds for the appeal and contain a brief summary of all facts which the aggrieved party deems material to the appeal.
- (3) A hearing on the appeal shall be heard by the City Manager not later than 30 days from the date of filing the notice or appeal.

Sec. 9.5.199—9.5.200 - Reserved

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Southlake, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such

Code, in which event the conflicting provision of such ordinances and such Code are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and section of this ordinance are 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 and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

Any person, firm or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcements of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 5.

All rights and remedies of the City of Southlake are expressly saved as to any and all violation of the provisions of the Code of Ordinances of the City of Southlake, as amended, relating to false alarms and alarm systems or any other ordinances affecting alarm systems which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.

The City Secretary of the City of Southlake is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

SECTION 7.

The City Secretary of the City of Southlake is hereby directed to publish the proposed ordinance or its caption and penalty together with a notice setting out the time and place for a public hearing thereon at least ten (10) days before the second reading of this ordinance, and if this ordinance provides for the imposition of any penalty, fine or forfeiture for any violation of any of its provisions, the City Secretary shall additionally publish this ordinance or its caption and penalty in the official City newspaper one time

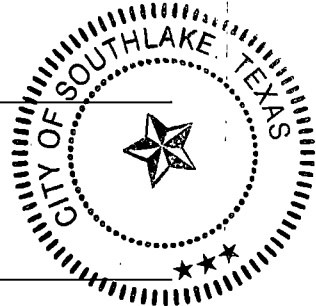
within ten days after final passage of this ordinance, as required by Section 3.13 of the Charter of the City of Southlake.

PASSED AND APPROVED ON FIRST READING ON THIS 17th DAY
OF January, 2022:23


MAYOR

ATTEST:

CITY SECRETARY

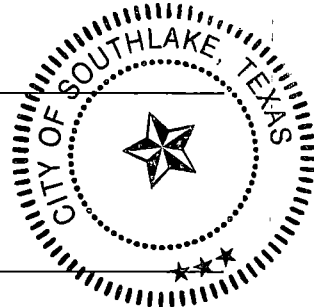


PASSED AND APPROVED ON SECOND READING ON THIS 17th DAY OF
February, 2022:23


MAYOR

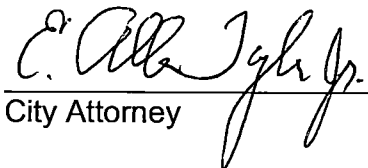
ATTEST:

CITY SECRETARY



EFFECTIVE: 2/11/23

APPROVED AS TO FORM AND LEGALITY:


City Attorney



Beaufort Gazette
Belleville News-Democrat
Bellingham Herald
Bradenton Herald
Centre Daily Times
Charlotte Observer
Columbus Ledger-Enquirer
Fresno Bee

The Herald - Rock Hill
Herald Sun - Durham
Idaho Statesman
Island Packet
Kansas City Star
Lexington Herald-Leader
Merced Sun-Star
Miami Herald

el Nuevo Herald - Miami
Modesto Bee
Raleigh News & Observer
The Olympian
Sacramento Bee
Fort Worth Star-Telegram
The State - Columbia
Sun Herald - Biloxi

Sun News - Myrtle Beach
The News Tribune Tacoma
The Telegraph - Macon
San Luis Obispo Tribune
Tri-City Herald
Wichita Eagle

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
36037	372605	Print Legal Ad-IPL01061560 - IPL0106156	22300067	\$56.96	1	35 L

Attention: Selena Serrano
CITY OF SOUTHLAKE
1400 MAIN ST
STE 420
SOUTHLAKE, TX 760927604

PUBLIC HEARING NOTICE

CITY OF SOUTHLAKE, TEXAS

Notice is hereby given to all interested persons that the City of Southlake, Texas, will consider the following items in the Council Chambers at Town Hall, 1400 Main Street, Southlake, Texas for:

The City Council on Tuesday, February 7, at 5:30 p.m. will hold a public hearing and consider:

~~ORDINANCE NO. 1268, AN ORDINANCE AMENDING CHAPTER 9.5 "ENVIRONMENT," ARTICLE II "STORM DRAINAGE," CREATING A NEW DIVISION 10, "POST CONSTRUCTION STORMWATER MANAGEMENT"; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.~~

All interested persons are urged to attend.

City of Southlake
Amy Shelley, TRMC
City Secretary
IPL0106156
Jan 25 2023

THE STATE OF TEXAS COUNTY OF TARRANT

Before me, a Notary Public in and for said County and State, this day personally appeared Stefani Beard, Bid and Legal Coordinator for the Star-Telegram, published by the Star-Telegram, Inc. at Fort Worth, in Tarrant County, Texas; and who, after being duly sworn, did depose and say that the attached clipping of an advertisement was published in the above named paper on the listed dates:

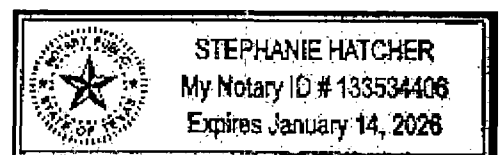
1 insertion(s) published on:
01/25/23

Stefani Beard

Sworn to and subscribed before me this 25th day of January in the year of 2023

Stephanie Hatcher

Notary Public in and for the state of Texas, residing in Dallas County



Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!