

## **ORDINANCE NO. 2037**

**AN ORDINANCE OF THE CITY OF SUGAR LAND, TEXAS AMENDING CHAPTER 11 OF THE SUGAR LAND DEVELOPMENT CODE REGARDING STORMWATER QUALITY MANAGEMENT AND DISCHARGE CONTROL BY ADDING DEFINITIONS, TIME FOR SUBMISSION OF A STORMWATER POLLUTION PREVENTION PLAN, POST CONSTRUCTION MAINTENANCE REQUIREMENTS, AND INSPECTION PROVISIONS.**

### **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS:**

**Section 1.** That Chapter 11, Article I., Section 11-7 of the Sugar Land Development Code is amended by adding the following definitions to read as follows:

*Department* means the department designated by the City Manager to administer this Chapter.

*Director* means the person designated by the City Manager to administer this Chapter.

*Discharge* means, when used without a qualifier, the discharge of stormwater runoff or certain non-stormwater discharges as allowed under the authorization of the City's most current TPDES Permit issued by the TCEQ.

*Stormwater management facility* means a facility or device to capture or prevent pollution in stormwater runoff. Stormwater management control facilities may include, but are not limited to: wet ponds, bio-retention facilities, infiltration basins, stormwater wetlands, silt fences, earthen dikes, drainage swales, vegetative lined ditches, vegetative filter strips, sediment traps, check dams, subsurface drains, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins.

**Section 2.** That Chapter 11, Article III., Section 11-19(c) of the Sugar Land Development Code is amended to read as follows:

(c) Allow the city to review a copy of the person's most current stormwater pollution prevention plan with an application for city approval of any of the following: a site plan, infrastructure construction plan(s), development or improvement plan(s), or building permit; and

**Section 3.** That Chapter 11, Article III., Section 11-20(b) of the Sugar Land Development Code is amended to read as follows:

(b) A person that owns or develops land as new development or redevelopment must:

(1) Comply with the city's stormwater pollution prevention measures adopted as part of the City of Sugar Land Design Standards; and

(2) Submit to the city a copy of the person's most current stormwater pollution prevention measures with an application for city approval of a site plan, development or improvement plan, infrastructure construction plan(s), or building permit.

**Section 4.** That Chapter 11, Article III., Sections 11-21(b) and (c) of the Sugar Land Development Code are amended to read as follows:

(b) As soon as a person has information of any known or suspected release of a pollutant or hazardous material that results in or could result in a discharge to the municipal separate storm sewer system, waters in the state, or waters of the United States, that person must:

- (1) For hazardous materials, immediately notify emergency response officials of the release or suspected release via emergency dispatch services (911); and
- (2) For non-hazardous pollutants, immediately notify the department in person or by phone. The notification must be confirmed by written notice addressed and mailed to the department within three business days of the telephone or in-person notice.

(c) If the discharge of a pollutant or hazardous material is released as a result of a commercial activity or industrial activity, the owner or operator of the commercial or industrial establishment must:

- (1) Take all necessary steps to ensure the discovery, containment, cleanup, and remediation of the release; and
- (2) Prepare a written record of the discharge and the actions taken to prevent its recurrence, submit the record(s) to the department within 7 working days of the occurrence, and retain the records on-site at the person's facility for at least three years.

**Section 5.** That Chapter 11, Article IV. of the Sugar Land Development Code is amended by renaming Article IV to read as follows:

**“ARTICLE IV. MONITORING, INSPECTION, AND POST-CONSTRUCTION  
MAINTENANCE AND RECORD RETENTION”**

**Section 6.** That Chapter 11, Article IV. of the Sugar Land Development Code is amended by adding Section 11-28 to read as follows:

**Sec. 11-28. – Post Construction Maintenance and Record Retention.**

(a) For new development and redevelopment of sites that discharge into the City’s municipal separate storm sewer system and disturb one acre or more, or that disturb less than one acre that are part of a larger common plan of development or sale, storm water discharges must be controlled as required by the city’s small MS4 general permit issued by the TCEQ. Storm water discharges will be controlled through different structural or non-structural best management practices designed, installed, and implemented by owners and operators of new development and redeveloped sites. The owner or operator of any new development or redevelopment of a site is required to develop and implement a maintenance plan, as required by the City’s TPDES permit. The maintenance plan must address post-construction maintenance requirements for any structural control measures or best management practices installed on site.

(b) The owner or operator of any new development or redevelopment of a site must perform adequate maintenance to ensure the proper intended operation of the stormwater management facility in accordance with its design as set forth when the facility was built or most recently modified. All post-construction structural control measures must be maintained by the owner or operator of a new development or redevelopment of a site under the maintenance plan. The owner or operator of the new development or redevelopment of the site must acknowledge that the maintenance plan has been or will be developed when applying for a City Land Disturbance Permit. The maintenance plan must be submitted to and approved by the City on or before the date that:

(1) The City issues a certificate of occupancy if a certificate of occupancy is required as part of the development or redevelopment of the site; or

(2) Substantial completion of the new development or redevelopment of the site if no certificate of occupancy is required as part of the development or redevelopment of the site.

The maintenance plan must be filed and recorded in the real property records of Fort Bend County.

(c) Maintenance requirements include, but are not limited to:

- (1) Structural integrity protection to include sealing existing cracks in concrete; repairing eroded inlet channels and outlet pipes; replacing or repairing rip-rap at inlet channels or emergency spillways; replacing pipes, inlets and headwalls; repairing holes, depressions, and/or cracks; repairing leaking and/or damaged concrete spillways; repairing leaking and/or damaged riser/barrel; and
- (2) Repair and replacement of pumps, electrical systems, and all appurtenances;
- (3) Bank erosion repair;
- (4) Vegetation management to include removing trees and woody vegetation from spillways, earthen dams or retaining walls; re-seeding and repairing bare areas or gullies; mowing and regularly maintaining vegetation; and
- (5) Removal of trash and debris to include removing obstructions from spillways and outlet pipes; and clearing debris from intake or outfall areas, pond areas, and spillway trash racks;
- (6) Sediment removal to restore intended capacity and function of the stormwater management facility;
- (7) Replacement and/or unclogging filter of gravel around spillway risers; and
- (8) Repairing any seepage, leaking, and or piping of earthen dams or retaining walls.

(d) The operational and maintenance activities that are performed must be documented and retained on site (e.g. at the office of the owner or operator) and made available for review by the city or other regulatory agencies when requested, along with a copy of the city's Land Disturbance Permit, and a copy of the Fort Bend County recordation number.

**Section 7.** That Chapter 11, Article IV. of the Sugar Land Development Code is amended by adding Section 11-29 to read as follows:

Sec. 11-29. – Inspection Requirements.

(a) At a minimum, the stormwater management facility must be inspected annually to evaluate the primary function of the stormwater management facility and to ensure that all post-construction stormwater control measures are operating correctly and are being maintained consistent with the maintenance plan.

(b) Persons responsible for the operation and maintenance of a stormwater management facility must make records of the installation and of all maintenance and repairs. Records of the inspection, maintenance and repairs must be completed, signed by the responsible person, and retained for a minimum of five years, for review upon city request. As-built plans of the stormwater management facility must be retained for the duration of the existence of the stormwater management facility. Copies of the as-built plans and records of all self-inspections, maintenance, and repairs shall be kept on-site and shall be made available to the city during inspection of the stormwater management facility and at other reasonable times upon city's request.

(c) Person(s) responsible for the operation and maintenance of a stormwater management facility must inspect and evaluate the following, if present, at each stormwater management facility:

- (1) Dams, berms, levees;
- (2) Spillways;
- (3) Inlets;
- (4) Pipes, culverts, and appurtenances;
- (5) Outlets;
- (6) Bank erosion;
- (7) Sedimentation;
- (8) Vegetation;
- (9) Trash and debris;
- (10) Water quality impairments; and
- (11) Any other stormwater management facility.

(d) Deficiencies identified in the inspection must be noted in the inspection report and recommended corrective actions must be documented and maintained with the report.

(e) Deficiencies must be addressed within 90 days from the date identified unless additional time is approved by the director. The person responsible for the inspection must document the resolution of each deficiency identified in the inspection report.

(f) The first inspection report and inspection reports every five years afterwards shall be submitted and sealed by a licensed professional engineer in the State of Texas. Inspections by the professional engineer are not required to be extended beyond visual field observations and review of as-built plans unless deficiencies are identified that, in the opinion of the professional engineer or director indicate the need for a more detailed investigation.

(g) The first inspection report shall be submitted to the city upon completion of construction of the stormwater management facility, along with the as-built plans. Subsequently, inspection reports shall be submitted annually by January 31st for the preceding calendar year inspection or 180 calendar days from the adoption of this article, whichever is later. Additional inspection reports may be required by the city in the event of a natural disaster or after a large storm event, upon the director's request to evaluate the structural integrity and function of the stormwater management facility.

**Section 8.** That Chapter 11, Article III., Section 11-32 of the Sugar Land Development Code is amended to read as follows:

(a) A completed application for a land disturbance permit must be submitted to the city engineer's office on a city form. The application will require a stormwater pollution prevention plan (if the person is subject to a TPDES Permit or NPDES Permit), a plan showing the person's best management practices for pollution and erosion control (if the person is not subject to a TPDES Permit or NPDES Permit), and other information, including plans, that the director or his/her designee determines is reasonably necessary to administer this chapter and to protect the public, public property, waters in the state, and waters of the United States.

(b) The land disturbance permit will be issued if the application complies with the provisions of this chapter. The permit must contain the name, address, and telephone number of the person performing the work, the location of the work, and any other information designated by the director or his/her designee. The permit may contain special conditions that the director or his/her designee determines are necessary to ensure compliance with this chapter or to protect the public, the municipal storm sewer system, or public property. It is unlawful for any person doing work under a land disturbance permit to violate any special condition or other provision of the land disturbance permit.

(c) The permit holder must keep the permit posted at a visible place at the work site and make it available for inspection upon the request of any city employee.

(d) A land disturbance permit issued under this chapter is valid for the time period specified by the director or his/her designee, based on the estimated time to complete the work. Upon the written request of the permit holder, the director or his/her designee may grant additional time to complete the work under the land disturbance permit.

**Section 9.** That Chapter 11, Article III. of the Sugar Land Development Code is amended by revising Sec. 11-33 to read as follows:

(a) If a person violates a provision of this chapter, the director or his/her designee may issue a written stop work order directing that any work or activity authorized to be done under a land disturbance permit cease until the violation is corrected. Upon receiving a stop work order, the permit holder must immediately cause all work authorized under the land disturbance permit to stop, but may take steps necessary to secure the site. It is unlawful for any person to continue to work under a land disturbance permit after receiving a stop work order or receiving notice that a stop work order has been issued or to resume the work or activity until the director or his/her designee withdraws the stop work order.

(b) The director or his/her designee may revoke a land disturbance permit for a violation of this chapter. To revoke a land disturbance permit the director or his/her designee will send or deliver written notice of a violation to the permit holder ordering the violation to be corrected within a specified time. If the permit holder fails to correct the violation as directed, the director or his/her designee may revoke the permit by giving notice to the permit holder in writing.

(c) The permit holder may appeal the denial or revocation of a land disturbance permit, the interpretation or application of a requirement of this chapter, the issuance of a stop work order or notice of violation, or other requirement or action imposed under this chapter by the director or his/her designee. The appeal must be submitted in writing to the city manager within three business days of the action being appealed. The city manager or his/her designee will review the facts and issue a written determination within three business days of receipt of the appeal.

(d) The revocation and appeal provisions in this section govern over any other conflicting provision in this Code or the Sugar Land Code of Ordinances.

**Section 10.** That any person found guilty of violating this ordinance will be fined not more than \$2,000 for each offense. Each day any violation continues constitutes a separate offense. Notice of the enactment of this ordinance will be given by publishing the ordinance or its descriptive caption and penalty in the City's official newspaper one time within thirty days of passage

**Section 11.** That the provisions of this ordinance are severable and the invalidity of any part of this ordinance will not affect the validity of the remainder of the ordinance.

APPROVED on first consideration on November 17, 2015.

ADOPTED upon second consideration on December 01, 2015.

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James A. Thompson, Mayor

ATTEST:

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Glenda Gundermann, City Secretary

Approved as to Form:

*Eugenia A. Cano*



# CITY COUNCIL

## AGENDA REQUEST

<b>AGENDA OF:</b>	<b>12-01-15</b>	<b>AGENDA REQUEST NO:</b>	<b>III-B</b>
<b>INITIATED BY:</b>	<b>MELISSA HOFFMAN, <i>AAA</i> ASSISTANT DIRECTOR OF ENVIRONMENTAL &amp; NEIGHBORHOOD SERVICES</b>	<b>RESPONSIBLE DEPARTMENT:</b>	<b>ENVIRONMENTAL &amp; NEIGHBORHOOD SERVICES</b>
<b>PRESENTED BY:</b>	<b>MELISSA HOFFMAN, ASSISTANT DIRECTOR OF ENVIRONMENTAL &amp; NEIGHBORHOOD SERVICES</b>	<b>DIRECTOR:</b>	<b>DAWN STEPH, <i>DMS</i> DIRECTOR OF ENVIRONMENTAL &amp; NEIGHBORHOOD SERVICES</b>
		<b>ADDITIONAL DIRECTOR (S):</b>	<b>CHRISTOPHER STEUBING, PE, CFM, CITY ENGINEER <i>CLS</i> LISA KOCICH-MEYER DIRECTOR OF PLANNING</b>
<b>SUBJECT / PROCEEDING:</b>	<b>POST CONSTRUCTION STORM WATER MANAGEMENT PROGRAM SECOND READING OF ORDINANCE NO. 2037</b>		
<b>EXHIBITS:</b>	<b>ORDINANCE NO. 2037</b>		
<b>CLEARANCES</b>		<b>APPROVAL</b>	
<b>LEGAL:</b>	<b>EUGENIA CANO, FIRST ASSISTANT CITY ATTORNEY <i>EAC</i></b>	<b>ASSISTANT CITY MANAGER:</b>	<b>JIM CALLAWAY</b>
<b>PURCHASING:</b>	<b>N/A</b>	<b>ASSISTANT CITY MANAGER:</b>	<b>N/A</b>
<b>BUDGET:</b>	<b>N/A</b>	<b>CITY MANAGER:</b>	<b>ALLEN BOGARD <i>Allen Bogard</i></b>
<b>BUDGET</b>			
<b>EXPENDITURE REQUIRED: \$</b>		<b>N/A</b>	
<b>CURRENT BUDGET: \$</b>		<b>N/A</b>	
<b>ADDITIONAL FUNDING: \$</b>		<b>N/A</b>	
<b>RECOMMENDED ACTION</b>			
Approve Ordinance No. 2037 to amend Chapter 11 of the Sugar Land Development Code to establish framework for a Post-Construction Stormwater Management Program in accordance with TCEQ permit requirements.			



## EXECUTIVE SUMMARY

On December 11, 2013, the TCEQ approved the issuance of the TPDES renewal permit for small MS4s, effective December 13, 2013. This new permit replaces the previous general permit that expired on August 12, 2012. The new permit created four levels, which are based on population size, with each level requiring additional compliance measures and permitting obligations. The City is categorized as a level three operator, which requires additional inspections, construction site inventories, post-construction development standards, and facility-specific storm water management standard operating procedures. Further, additional measures have been added in to be more protective of impaired water bodies, such as Upper Oyster Creek.

The TPDES permit requires the City to develop, implement and enforce a program to control stormwater discharges from new development and redeveloped sites that disturb one acre or more, including projects that disturb less than one acre that are part of a larger common plan of development or sale. The program must be implemented by the end of permit year two, which ends on December 31, 2015.

In order to comply with permit requirements, the Environmental & Neighborhood Services Department is recommending an amendment to Chapter 11 of the Sugar Land Development Code to establish framework for a maintenance plan and inspection program.

### **Maintenance Plan Program Requirements**

- The owner or operator is required to develop and implement a maintenance plan. This plan must address post-construction requirements for any structural control measures or best management practices installed on site.
- The owner or operator must acknowledge that the plan has been or will be developed when applying for a City Land Disturbance Permit.
- The maintenance plan must be submitted and approved by the City on or before the date that:
  - The City issues a certificate of occupancy if a certificate of occupancy is required as part of the development or redevelopment of the site; or
  - Substantial completion of the new development or redevelopment of the site if no certificate of occupancy is required.
- Plan must be filed in the FBC real property records.
- Plan must be developed using Best Maintenance Practices.
- The operational and maintenance activities that are performed must be documented and retained on site and made available for review by the City or other regulatory agencies when requested, along with a copy of the City's Land Disturbance Permit, and a copy of the Fort Bend County recordation number.

### **Maintenance Plan Requirements include, but are not limited to:**

- Structural integrity protection
- Repair and replacement of pumps and electrical systems
- Bank erosion repair
- Vegetation management
- Removal of trash and debris
- Sediment removal to restore intended capacity
- Repairing and seepage, leaking and/or piping of earthen dams or retaining walls.

**Inspection Program**

- The owner or operator of a new development or redeveloped site is required to perform all maintenance according to their maintenance plan.
- The owner or operator will schedule and cover the cost of a third party annual inspection and submit the report to the City.
- The City will monitor and record report submissions and conduct any follow up inspections necessary. This process will be similar to the backflow inspection program.

**Violation**

- Violations will be fined not more than \$2,000 for each offense.
- Each day any violation continues constitutes a separate offense.

The Environmental & Neighborhood Services Department recommends approval of Ordinance No. 2037 to amend Chapter 11 of the Sugar Land Development Code to establish framework for a Post-Construction Stormwater Management Program in accordance with TCEQ permit requirements.

**EXHIBITS**