

ORDINANCE NO 1038

AN ORDINANCE REPEALING TITLE SEVEN (7) AND CHAPTER SEVEN (7) ELECTIONS OF THE CODE OF ORDINANCES, AND ADOPTING AN ORDINANCE ESTABLISHING A NEW CHAPTER SEVEN (7) OF THE CODE OF ORDINANCES TITLED STORM DRAINAGE, DECLARING THE DRAINAGE OF THE CITY TO BE A PUBLIC UTILITY, CREATING A STORMWATER FUND, STORMWATER DEVELOPMENT FEE AND MONTHLY STORMWATER FEE, PROHIBITING CERTAIN DISCHARGES INTO THE MUNICIPAL STORM DRAINAGE SYSTEM AND ESTABLISHING STORMWATER COMPLIANCE FOR CONSTRUCTION ACTIVITY.

WHEREAS, Title Seven (7) and Chapter Seven (7) Elections of the Code of Ordinances has been superseded by provisions of the Texas Elections Code and the Texas Local Government Code so that it is appropriate to repeal said title and chapter of the Code of Ordinances to eliminate conflicts and redundancies between state law and the Code of Ordinances; and

WHEREAS, the Municipal Drainage Utility Systems Act in Subchapter C of Chapter 402 of the Texas Local Government Code permits municipalities to establish a municipal drainage utility system and to provide rules for the use, operation, and financing of the system to protect the public health and safety in municipalities; and

WHEREAS, the City of Castle Hills intends to comply with State of Texas regulations to enhance the health, safety and general welfare of its residents and the general public; and

WHEREAS, the City of Castle Hills intends to establish and implement a stormwater development fee and a monthly stormwater fee to protect the health, safety and welfare of the community and in response to the requirements of the Federal Water Quality Act of 1987; and

WHEREAS, the City of Castle Hills intends to adopt the City of Castle Hills Drainage Utility as a municipally operated public utility pursuant to Chapter 402, Subchapter C of the Texas Local Government Code and to charge it with protecting the public health and safety against loss of life and property caused by surface water overflows, surface water stagnation, and pollution arising from nonpoint source runoff within the boundaries of the drainage utility service area; and

WHEREAS, Section 402.045 of the Texas Local Government Code requires notice by publication, in a newspaper of general circulation in Castle Hills, of the entire ordinance and order the time and place of a public hearing to consider the ordinance; and

WHEREAS, after conducting a public hearing on this day and after due consideration, City Council finds it necessary to establish and implement a stormwater development fee and a monthly stormwater fee to protect the health, safety and welfare of the community.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTLE HILLS, TEXAS that Title Seven (7) and Chapter (7) Elections of the Code of Ordinances is hereby repealed.

BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTLE HILLS, TEXAS that Chapter Seven (7), Storm Drainage, is hereby adopted as follows:

“Chapter 7

STORM DRAINAGE

ARTICLE I. IN GENERAL

Sec. 7-1.	Definitions.
Sec. 7-2.	Administration; rules and regulations.
Sec. 7-3.	Penalties.
Sec. 7-4.	Injunctive relief and other remedies for violations.
Sec. 7-5.	Conflict.
Sec. 7-6.	Severability.
Secs. 7-7—7-99	Reserved.

ARTICLE II. CASTLE HILLS MUNICIPAL STORM DRAINAGE SYSTEM

Sec. 7-100.	Declaring the drainage of the City to be a public utility.
Sec. 7-101.	Establishment and revision to drainage utility service area.
Sec. 7-102.	Stormwater fund.
Secs. 7-103—7-199.	Reserved.

ARTICLE III. PROHIBITED DISCHARGES INTO THE MUNICIPAL STORM DRAINAGE SYSTEM

Sec. 7-200.	Prohibited discharges into the MS4.
Sec. 7-201.	Placing brush cuttings, clippings, and/or rubbish into the MS4.
Sec. 7-202.	Placing household hazardous wastes into the MS4.
Sec. 7-203.	Prohibiting the improper use of pesticides in order to keep them from entering the MS4.
Sec. 7-204—7-299	Reserved.

ARTICLE IV. STORMWATER COMPLIANCE FOR CONSTRUCTION ACTIVITY

Sec. 7-300.	Statement of purpose.
Sec. 7-301.	Declaration of nuisance for violation.
Sec. 7-302.	Prohibition against construction pollution of the municipal storm drainage system; measurable volumes for violation.
Sec. 7-303.	Additional federal and state requirements generally applicable to responsible parties associated with five (5) acre or larger projects.
Sec. 7-304.	Best management practices (BMP) guidelines
Sec. 7-305.	Enforcement procedures.
Sec. 7-306—7-399	Reserved.

ARTICLE I. IN GENERAL

Sec. 7-1. Definitions.

Benefitted property: Real property that is a parcel of property or lot within the corporate boundaries of the City of Castle Hills to which stormwater drainage plans, programs, or services are made available and which receives water, wastewater, or electric utility service from the City of Castle Hills. A parcel of property is a piece of land regardless of size under one (1) ownership, such ownership being further defined as the way in which property is legally described in duly recorded legal documents in the official public records of real property of the county in which the parcel of property is located. A lot is a designated property shown on a recorded plat duly recorded in the official public records of real property of the county in which the recorded plat is located.

When used in this Article B, the following terms shall have the following meanings:

Best Management Practices (BMPs): A technique or series of structural and non-structural techniques and practices which, when used in an erosion control plan or considered as part of a construction site's housekeeping efforts, are proven to be effective in controlling construction-related runoff, erosion, sedimentation, and associated pollutants.

Brush cuttings, clippings. All herbaceous materials, including lawn trimmings and leaves.

The Castle Hills Municipal Storm Drainage System (MS4). The system of conveyances, including but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, creeks, streams, tributaries, man-made channels, or storm drains, which:

- (1) Provide collection or conveyance of stormwater, rain water, flood water, or other surface water; and
- (2) Are located on public property; and
- (3) Are not designed and intended to be part of the collection system of a sanitary sewer system utilized by a publicly owned treatment works (POTW) as defined in Title 40 C.F.R. 122.2.

Construction activity: Clearing or grading of land, dozing or mechanical removal of trees which dozing or mechanical removal disturbs the soil, excavation for installation of utility lines, streets, drainage facilities, and site preparation for housing and commercial development, as well as on-going construction activities which produce waste products.

Director: The Director of Public Works of the City of Castle Hills or designee(s).

EPA: The United States Environmental Protection Agency.

Erosion: the wearing away of the ground surface as a result of the movement of wind, water and/or ice.

Final inspection: Occurs after responsible party meets definition of final stabilization and files a NOT, if required by state or federal law, at which time the City will conduct a final inspection to verify compliance with final stabilization and removal of temporary BMP's has occurred.

Final stabilization: Reference to standards in the NPDES General Permit for Storm Water Discharges for Construction Activities in EPA's Region 6 concerning development acreage that: (1) where state or federally regulated development acreage is concerned, all soil disturbing activities at the site have been completed, and a uniform perennial

vegetative cover, with a density of seventy (70) percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures or equivalent permanent stabilization measures have been employed and (2) where local, individual lots associated with residential or commercial construction are concerned, by either (a) the responsible party complying with cover requirements guided by federal or state standards recited above, or (b) the responsible party establishing temporary stabilization including perimeter controls and informing the home buyer or commercial purchaser in writing of the need for and benefits of final stabilization.

Grade: The vertical location of the ground surface.

Grading: Any land disturbance or land fill, or combination thereof.

Household hazardous waste. Waste from materials utilized for residential or housekeeping purposes containing regulated substances which either singularly or by its interaction with other wastes or by its accumulation in the MS4 becomes injurious or potentially injurious to human, plant, or animal life, or property. For purposes of this division household hazardous wastes include but are not limited to paint, paint thinners, paint solvents, bleaches, and drain cleaners.

Impervious cover: Ground surfaces including concrete or paved driveways, sidewalks, parking lots, buildings and other improvements that resists the infiltration of water, thereby resulting in a high rate of water runoff. Impervious cover includes any surface material or surface treatment or surface condition which sheds fifty percent (50%) or more of rainfall, or water, which falls on it.

Impervious surface area: For the purposes of calculation for this chapter, the total square footage of all impervious cover on a developed property, excluding public sidewalks.

Improved: Altered by man-made conditions.

Land disturbance/land-disturbing activities: Any moving or removing by manual or mechanical means of the soil mantle or top six (6) inches of soil, whichever is shallower, including but not limited to excavations.

Land fill: Any human activity involving the disposition of soil, earth, or other earthen or aggregate materials.

Measurable volume: For purposes of determining a violation, the amount of sediment, soil, soil material, or pollutant, shall be such volume as is capable of being truly and correctly depicted in a photograph, motion picture, or video recording of the sediment, soil, soil material, or pollutant in question.

Municipal storm drainage system (MS4): All natural and man-made collection and conduit facilities within the corporate limits of the City of Castle Hills and within applicable limits of its extraterritorial jurisdiction, and for which MS4 protection the City of Castle Hills has been issued a National Pollutant Discharge Elimination System (NPDES) Permit by EPA, which collection and conduit facilities constitute a system of conveyances, including but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, creeks, streams, tributaries, man-made channels, or storm drains, which provide collection or conveyance of stormwater, rain water, flood water, or other surface water, and may be located on public property, drainage easements, or other property, and are not designated and intended to be part of the collection system of a sanitary sewer system utilized by a publicly owned treatment works (POTW) as defined by federal regulation at 40 CFR 122.2.

NOI: Notice of intent filed by a responsible party with EPA or TCEQ. This NOI is required under federal regulation, or future state regulation, for certain construction activity. The NOI is part of the federal general permit process for construction activity concerning projects or runoff deemed to potentially impact waters of the United States of America.

NOT: Notice of termination. The notice required by EPA or TCEQ for sizeable projects within the jurisdiction of either agency, which notice verifies "final stabilization" of the site has been achieved, as described above; EPA form 3510-7 terminating coverage under the NPDES general permit or corresponding TCEQ form for the TPDES Texas Pollutant Discharge Elimination System general permit.

NPDES: National Pollutant Discharge Elimination System.

Ordinance: This ordinance in its entirety, pertaining to new Article B, Division 5, Chapter 7, Code of Ordinances of the City of Castle Hills.

Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or the legal representatives, agents, or assigns thereof.

Pesticide. Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and/or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

Pollutant: Any substance introduced into the environment that adversely affects a resource. Pollutant includes, but is not limited to, soil, soil material, sediment, human waste, other wastes and debris generated at construction sites.

Responsible party: Any person or legal entity, individual or corporate, including an owner, operator, contractor, or subcontractor, any or all of whom may be engaged in, consent to, or actually perform a construction project or construction activity.

Rubbish. Inorganic solid waste including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, glass, crockery, tin and aluminum cans, metal furniture, and other like materials.

Soil and/or soil material: Naturally occurring superficial deposits of earth mantle overlying bedrock or clay; any naturally occurring surface deposit of sand, gravel, silt, clay, or any mixture thereof.

Storm water: Storm water runoff, snow melt runoff, and surface runoff and drainage, as per NPDES Permit No. TXS001901.

Storm Water Management Plan (SWMP): The state or federally required plan for identifying and implementing appropriate measures to reduce pollutants in storm water discharges into the City's municipal storm water drainage systems (MS4), which pollutants include eroded sediments. Protective measures include, but are not limited to, natural and man made collection components, good house-keeping for site maintenance, and other common sense actions, all frequently referred to as best management practices (BMPs).

TCEQ: Texas Commission on Environmental Quality

Unimproved: Natural conditions, unaltered.

Unit: Single living, commercial or occupied space within a developed property.

Sec. 7-2. Administration; rules and regulations.

The Director shall be responsible for the administration of this division. The Director shall develop necessary rules, regulations and procedures necessary for the administration of the chapter including a methodology for considering variances.

Sec. 7-3. Penalties.

(a) Any person or entity who shall fail to comply with any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished in accordance with section 1.301(A) and (C) of this Code. Each day any violation or noncompliance shall continue shall be subject to being constituted as a separate offense.

(b) A civil penalty in an amount not to exceed five thousand dollars (\$5,000.00) per violation of this chapter may be imposed. Each violation of a particular section of this chapter shall constitute a separate offense, and each day such offense continues shall be considered a new violation for purposes of enforcing this chapter. A culpable mental state is not required to prove an offense under this ordinance.

Sec. 7-4. Injunctive relief and other remedies for violation.

(a) Any person or entity who shall fail to comply with any provision in this chapter, or who shall commit any of the acts described by this chapter, or be guilty of any of the omissions thereof, shall be liable to injunctive action prohibiting the violation of this chapter and shall be subject to being mandatorily enjoined to immediately remediate any violations of this chapter, and shall be liable and responsible for any and all expenses that may be incurred by the City in connection with any such action, omission or other violation, including reasonable attorney's fees.

(b) In addition to any other remedies provided by this chapter, the City of Castle Hills may, at any time, seek legal and/or equitable remedies or may file charges against any person, corporation or other entity believed to be in violation of this chapter.

(c) The use of negotiated civil settlements or other methods of alternative dispute resolution to reach a civil settlement is hereby authorized; provided that the civil penalty imposed by any such agreement or settlement is of a sufficient amount in relation to the violations to which they provide a sanction.

Sec. 7-5. Conflict.

The provisions of this article shall take precedence over those of any other existing ordinance of the City of Castle Hills which may contain provisions that are less restrictive than those specified in this article. However, nothing contained in this article shall mitigate, interfere with, alter or repeal any provisions of any other ordinance of the City of Castle Hills not in conflict with the provisions of this article. No provision of this chapter is intended to, nor shall any part or portion hereof be construed, so as to conflict with state or federal law.

Sec. 7-6. Severability.

If any provision of this chapter or the application thereof to any person or circumstance shall be held to be void or invalid for any reason, the remainder of this chapter and the

application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this chapter would have been enacted without such invalid chapter.

Secs. 7-7 – 7-99. Reserved.

ARTICLE II. CASTLE HILLS MUNICIPAL STORM DRAINAGE SYSTEM

Sec. 7-100. Declaring the drainage of the City to be a public utility.

City Council hereby adopts Texas Local Government Code Chapter 402 Subchapter C (entitled "Municipal Drainage Utility Systems"); declares the drainage of the City to be a public utility, to be known as the City of Castle Hills Storm Drainage System; and dedicates to the drainage utility all city owned property, real and personal, facilities, materials and supplies constituting the City's drainage system as constituted on the effective date of this chapter and as may be acquired in the future, to be used for the purpose of the drainage utility.

Sec. 7-101. Establishment and revision to drainage utility service area.

Pursuant to the authority granted by Texas Local Government Code § 402.044(8)(B) the drainage service area includes all land within the municipal boundaries of the City.

Sec. 7-102. Stormwater fund.

A separate fund shall be created, effective as of the effective date of this chapter, known as the stormwater fund, for the purpose of identifying and controlling all revenues and expenses attributable to the drainage utility. All stormwater fees collected by the City and other monies city council may wish to designate for this fund, shall be deposited in the stormwater fund. Such utility revenues shall be used for the purposes of administration, studies, engineering, construction, reconstruction and other reasonable and customary charges associated with the operation of the drainage utility.

Secs. 7-103 – 7-199. Reserved.

ARTICLE III. PROHIBITED DISCHARGES INTO THE MUNICIPAL STORM DRAINAGE SYSTEM

Sec. 7-200. Prohibited discharges into the MS4.

(a) It shall be a violation of this division for any person to deposit, throw, drain, discharge, cause or allow to be deposited, thrown, drained or discharged, or otherwise cause to be injected into the MS4, or any storm sewer manhole, catch basin, private drain, ditch, street, gutter, creek, stream, tributary, or any other drainage device which connects with or drains into the MS4, any of the following described materials or substances within the corporate limits of the City of Castle Hills:

- (1) Any acid waste materials;
- (2) Any alkaline waste materials;
- (3) Any water or waste containing free-floating, or insoluble oil;

- (4) Any gasoline, naphtha, fuel oil, mineral oil or other flammable or explosive liquid, solid or gas;
- (5) Any noxious, malodorous, poisonous, or reactive substance which, either singularly or by interaction with other substances, or by its accumulation in the MS4 becomes injurious or potentially injurious to human, plant or animal life, or property; or
- (6) Any domestic wastewater or industrial wastewater as defined in Article V, Division 3 of this chapter.

(b) It shall be a defense to prosecution under this section that such person was authorized to commit any act under a valid permit from the Texas Commission on Environmental Quality or the United States Environmental Protection Agency, which would otherwise constitute a violation at the time of commission.

Commentary: It is the intent of this division to prohibit indiscriminate discharging to the MS4; such indiscriminate discharging includes dumping or releasing of any accumulations of process materials, washing or cleaning materials or other wastes into the MS4. It is also the intent to eliminate improper storage or handling of dangerous, hazardous, or otherwise harmful materials in such a manner as to cause or allow their discharge into the MS4. However, these regulations are not intended to prohibit discharge of non-contaminated and non-polluting water which are not expected to be significant sources of pollutants because of the nature of their discharges. Consequently, no special controls or conditions are established for sources such as: 1) water line and fire hydrant flushing (excluding discharges of hyper chlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life); 2) runoff or return flow from landscape irrigation, lawn irrigation and other irrigation utilizing potable water, groundwater or surface water sources; 3) discharges from potable water sources; 4) diverted stream flows; 5) rising ground waters and springs; 6) uncontaminated ground water infiltration; 7) uncontaminated pumped ground water; 8) foundation and footing drains; 9) air conditioning condensation; 10) water from crawl space pumps; 11) individual residential vehicle wash water; 12) external building wash water; 13) flows from wetlands and riparian habitats; 14) dechlorinated swimming pool discharges; 15) pavement and street wash water; 16) water used to control dust; 17) discharges or flows from fire fighting activities (fire fighting activities do not include washing of trucks, runoff water from training activities, test water from fire suppression systems and similar activities); 18) other allowable non-storm water discharges listed in 40 CFR '122.26(d)(2)(iv)(B)(1); 19) non-storm water discharges that are specifically listed in the TPDES Multi Sector General Permit (MSGP) or the TPDES Construction General Permit (CGP); and 20) other similar occasional incidental non-storm water discharges.

Sec. 7-201. Placing brush cuttings, clippings, and/or rubbish into the MS4.

(a) It shall be a violation of this division for any person to deposit, discard or dump, or cause or allow to be deposited, discarded or dumped any brush cuttings, clippings, or rubbish within the MS4.

(b) It shall be a violation of this division for any person to place or cause or allow to be placed or dropped, brush cuttings, clippings, and/or rubbish within any street in the corporate limits of the City in such a manner that the same may be washed by the flow of water into the MS4.

Commentary: It is the intent of this section to restrict placement of rubbish, brush, lawn clippings or leaves, etc. into the MS4. It is also the intent to require that during certain seasons when leaves are shed that these materials are removed properly and prevented from collecting in mass quantities in the streets or MS4. It is recognized that from time to time during certain seasons or during normal yard maintenance, leaves, clippings, etc. will fall into the streets.

Sec. 7-202. Placing household hazardous wastes into the MS4.

(a) It shall be a violation of this division for any person to place, or cause or allow to be placed, a household hazardous waste within the MS4.

(b) It shall be a violation of this division for any person to place, or cause or allow to be placed, a household hazardous waste within any street in the corporate limits of the City in such a manner that the same may be washed by the flow of water into the MS4.

Commentary: The intent of this ordinance is to prohibit those conducting household activities such as cleaning, renovating, painting, auto repair, and other similar activities which utilize household hazardous wastes from discarding such wastes into the MS4, or from performing any activity that would result in the contamination of the MS4 with such household hazardous wastes.

Sec. 7-203. Prohibiting the improper use of pesticides in order to keep them from entering the MS4.

(a) It shall be a violation of this division for any person to cause or allow a pesticide to enter into the MS4.

(b) It shall be a violation of this division for any person to utilize a pesticide in a manner inconsistent with the proper usage set out in the labeling for such pesticide in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

(c) It shall be a violation of this division for any person to utilize a pesticide which is not properly labeled in accordance with FIFRA.

(d) It shall be a defense to prosecution under this section that the person accused of such violation utilized a pesticide in accordance with the requirements of FIFRA in a manner consistent with its labeling. The term "labeling" pursuant to Section 76 of FIFRA means all labels and all other written, printed or graphic matter:

(1) Accompanying the pesticide or device at any time; or

(2) To which reference is made on the label or in literature accompanying the pesticide or device except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health and Human Services, state experiment stations, state agricultural colleges, and other federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

Commentary: It is recognized that excess pesticides will migrate into the MS4 even under normal and proper usage. It is the intent of this ordinance to restrict the usage of those chemicals to the manner deemed appropriate by their manufacturer and consistent with FIFRA.

Secs. 7-204 – 7-299. Reserved.

ARTICLE IV. STORMWATER COMPLIANCE FOR CONSTRUCTION ACTIVITY

Sec. 7-300. Statement of purpose.

The intent of this article is to satisfy conditions imposed by the City's National Pollutant Discharge Elimination System (NPDES) Permit. Delegation of federal authority to the State of Texas, to administer NPDES Permit requirements, has been made by EPA to the TCEQ. The City will, to the extent allowable under State and local law, develop, implement, and enforce a program to reduce pollutants in construction storm water runoff from projects that disturb areas of one or more acres of land or projects that are part of a larger common plan of development or sale that would disturb one (1) or more acres of land. The program will utilize Best Management Practices (BMPs) to require erosion and sediment controls with sanctions to ensure compliance to the extent allowable under state and local law; requirements for construction site contractors to control erosion and sediment; requirements for controlling construction waste; procedures for the city's review of site plans; procedures for receiving information and complaints; and procedures for the city to inspect construction sites and to enforce controls.

Sec. 7-301. Declaration of nuisance for violation.

(a) Within the corporate limits of the City, no person shall perform construction activity that violates provisions of this article. Construction activity in violation of this article is hereby declared unlawful.

(b) Violations committed within the corporate limits and within five thousand (5,000) feet outside the City's corporate limits shall also constitute public nuisance, as further provided below at Sec. 7-208, Violations of any provision of this article within the City's corporate limits shall be deemed a criminal Class C misdemeanor. Violations of any provision of this article within the City's corporate limits or any part of the applicable ETJ shall be further subject to a civil enforcement option, more particularly described in Sec. 7-207 (b) below.

(c) No culpable mental state is required of any responsible party in order to constitute a violation of this article. Some of the requirements of this article may be generally characterized as good house-keeping protocols, those expected to be employed by a reasonably prudent contractor, operator, owner, or other person having responsibilities for various activities on a construction site. Where state or federal permits require the site operator, owner, or other responsible party, to make a storm water management plan (SWMP), such plans must be readily available for city inspection.

Sec. 7-302. Prohibition against construction pollution of the municipal storm drainage system; measurable volumes for violation.

(a) It is unlawful for any person to engage in construction activity which activity results in a measurable volume of sediment, soils, soils material, or pollutants entering the City's municipal storm drainage system (MS4).

(b) "Measurable volume" of sediment, soil, soil material, or pollutant, for purposes of determining a violation, shall be such volume as is capable of being truly and correctly

depicted in a photograph, motion picture, or video recording of the sediment, soil, soil material, or pollutant in question.

(c) Nothing in this section shall diminish or change the general prohibitions against MS4 pollution found in section 7-102, Article II of this Chapter 7, Prohibited discharges into the municipal separate storm sewer system. The City shall continue to exercise all enforcement powers set out in this Chapter 7, and to gather such evidence as may include, but not be limited to, samples and analysis appropriate to enforcement of Chapter 7 provisions.

(d) The responsible party shall use best management practices (BMPs) to prevent sediment, soils, soils materials, and pollutants from entering the City's MS4.

(e) It is unlawful for any person to engage in construction activity without employing BMPs necessary to protect the City's MS4 from run-off or other media capable of transporting sediment, soil, soil material, and pollutants into the City's MS4.

Sec. 7-303. Additional federal and state requirements generally applicable to responsible parties associated with five (5) acre or larger projects.

(a) Concerning projects for which the EPA or TCEQ have permitting authority, the responsible party shall post at the site, as required by federal or state regulations, a true and correct copy of the NOI.

(b) The responsible party shall have available for city inspection, on site, the storm water management plan (SWMP) imposed by EPA or TCEQ, when the site in question is subject to such plans imposed by federal or state law.

(c) The responsible party shall make the SWMP available to the City inspector, on reasonable request made during normal working hours.

(d) Failure, refusal, or inability to provide such plan for inspection, when the plan is required under state or federal law, constitutes a violation of this article.

(e) It shall be unlawful for any person to engage in construction activity in violation of the elements of an applicable SWMP.

(f) The responsible party shall provide the City a true and correct copy of any notice of termination (NOT) necessary to close out a project regulated by EPA or TCEQ. This copy shall be sent to the City.

(g) Where permanent improvements have been constructed, the final inspection shall verify whether or not the "final stabilization" criteria have been met.

(h) Where no permanent improvements are planned, temporary BMPs shall continue to be maintained until site has reached final stabilization.

(i) A site shall continue to be regulated until final stabilization is achieved; and, where applicable to state and federally regulated sites, until a "notice of termination" (NOT) has been filed. A copy of the NOT, if applicable, will also be filed with the City as described above at subsection (f).

(j) Where the site has met final stabilization requirements, but the controls or measures implemented thereafter fail, each discharge of construction related contamination by the responsible party shall constitute a violation of this article.

(k) Removal of temporary BMPs shall be required after the site achieves final stabilization.

Sec. 7-304. Best management practices (BMP) guidelines.

(a) Responsible parties are advised to utilize established BMPs and other good house-keeping protocols synonymous with federal standards directly associated with EPA's general permit for other construction sites regulated under federal law. Some of these federally regulated construction sites are permitted by the State of Texas under guidelines similar to those of EPA. Responsible parties whose projects of scale fall within state or federal parameters are responsible to EPA or TCEQ to fulfill requirements that may differ from or may be more stringent than the provisions of this ordinance applying to local, individual construction sites of a scale not regulated by state or federal authorities.

(b) In contrast, the purpose of this article and its requirements for BMPs are to satisfy the City's own federal permit which specifically requires the City to adopt a construction site regulation. Consequently, the intent of this article is to protect MS4 from pollutants generated from local construction sites. Federal jurisdiction to support this directive is found in the conduit of urban runoff traversing the Castle Hills area into rivers, streams, and especially bays regulated as "waters of the United States of America." Hence, storm water generated in the area of Castle Hills presumes to enter into and impact federal waters.

Sec. 7-305. Enforcement procedures.

(a) The Director may designate city inspectors (Inspectors).

(b) Upon observation of an alleged violation or condition an inspector believes constitutes a violation of this article, the Inspector shall issue a field correction notice to a responsible party. The field correction notice shall be personally delivered to a responsible party, if such person is available on site; or, in the absence of such person, shall be posted at the construction site. Field correction notices shall afford two (2) 24-hour periods to correct the violation alleged. The first 24-hour period should be used to remediate and remove the offending material, if any, from the City's MS4. A second 24-hour grace period shall follow immediately to allow the responsible party to appropriately install or repair corrective BMPs which was lacking or failed to protect city property.

(c) If the violation is cured within forty-eight (48) hours, as described above, no further city action is required.

(d) If correction is not made timely, the inspector may issue a stop work order.

(e) If a stop work order is not honored at the site and/or corrective action is not timely accomplished to protect the City's MS4, citations may be issued or civil injunctive remedies with appropriate penalties may be pursued.

(f) Additional or cumulative enforcement action may be taken as the seriousness of the alleged pollutant encroachment in the MS4 may warrant.

(g) Additional compliance time may be afforded, if within the judgment and discretion of the inspector, municipal obligations to environmental health and safety and municipal stormwater compliance obligations to enforcement agencies are not compromised.

Secs. 7-306—7-399. Reserved.

PASSED AND APPROVED this 8th day of December 2009.

MAYOR

ATTEST:

CITY SECRETARY

APPROVED AS TO FORM:

CITY ATTORNEY