



CITY COUNCIL CONSIDERATION ITEM

CITY OF FAIR OAKS RANCH, TEXAS

January 20, 2022

AGENDA TOPIC: Approval of the second reading of an Ordinance amending the City of Fair Oaks Ranch Code of Ordinances Chapter 1 “General Provisions” by adding a new article entitled “Stormwater Pollution Prevention”

DATE: January 20, 2022

DEPARTMENT: Public Works and Engineering Services

PRESENTED BY: Consent Agenda - Katherine Schweitzer, P.E., Manager of Engineering Services

INTRODUCTION/BACKGROUND:

The U.S. Environmental Protection Agency (EPA) issued regulations in 1999 to protect storm water quality in small cities and urbanized areas. In Texas, the Texas Commission on Environmental Quality (TCEQ) was delegated the responsibility for implementing the regulations, commonly called the Phase II Municipal Separate Storm Sewer System (MS4) program. In addition to issuing discharge permits to traditional “point sources,” such as municipal wastewater treatment plants, the TCEQ is also responsible for minimizing pollution from “non-point sources”, such as stormwater runoff from construction sites, industrial facilities or municipal storm sewer systems. The City of Fair Oaks Ranch is one of several hundred cities, counties, and other public entities required to develop and implement programs to protect storm water quality under Phase II MS4 regulations.

The City currently operates under the Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXR040000 which was issued in 2019. The General Permit requires permittees to develop and implement a stormwater management program (SWMP), including best management practices (BMPs) for each of the five required minimum control measure (MCM) elements (others are optional or not applicable):

- 1) Public Education, Outreach and Involvement
- 2) Illicit Discharge Detection and Elimination
- 3) Construction Site Stormwater Runoff control
- 4) Post Construction Stormwater Management in New Development/Redevelopment
- 5) Pollution Prevention and Good Housekeeping for Municipal Operations

The General Permit also requires traditional small MS4s (such as our City) to review and revise its relevant ordinance(s) or other regulatory mechanisms, or to adopt new ordinance(s) or regulatory mechanisms that provide the permittee with adequate legal authority to control pollutant discharges into its MS4 in order to meet the requirements of the General Permit.

This proposed ordinance establishes requirements for construction site operators to submit a Stormwater Pollution Prevention Plan (SWP3) prior to receiving a building or site development permit, describes plan content requirements in detail, requires the construction site operator to conduct regular inspections, including after storm events, and authorizes city staff to inspect construction sites for the purpose of ensuring compliance. The proposed ordinance also lists

allowable and prohibited (illicit) discharges into the MS4 and provides a schedule of penalties for non-compliance.

Gaining the attention and timely cooperation of some construction site operators to correct stormwater management issues has, at times, been a challenge. Repeated reminders, emails and phone calls over several weeks were often needed to facilitate corrective action. This proposed ordinance not only gives city staff the necessary tools to enforce compliance (i.e. stop-work orders, administrative penalties, etc.) but also places primary responsibility for routine inspection, monitoring, records keeping and plan update on the construction site operator with city staff in an oversight role.

Much of the regulations and definitions in this proposed stormwater pollution prevention ordinance were taken directly from the TCEQ Stormwater General Permit for Construction Activities TXR150000 and General Permit for Texas Pollutant Discharge Elimination System TXR040000.

The City Council passed and approved the first reading of the ordinance amending the City of Fair Oaks Ranch Code of Ordinances Chapter 1 "General Provisions" by adding a new article entitled "Stormwater Pollution Prevention" at their January 6, 2022 meeting.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

1. Improves the operation of the City's stormwater collection and conveyance system by controlling construction site runoff
2. Reduces the potential of drainage blockages, backups, flooding and costly cleanup.
3. Improves the water quality of our creeks and tributaries. What goes down the storm sewer drain goes directly into local waters, wetlands, and reservoirs used for drinking water and/or recreation.
4. Reduces environmental and public safety risks related to hazardous pollutants.
5. Enhances and helps implement the City's stormwater management program

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

N/A

LEGAL ANALYSIS:

Approved as to form.

RECOMMENDATION/PROPOSED MOTION:

Consent Agenda - I move to approve the second reading of an Ordinance amending Chapter 1 "General Provisions" by adding a new article entitled "Stormwater Pollution Prevention".