

ORDINANCE NO. 495

AN ORDINANCE OF THE CITY OF MANOR, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MANOR, TEXAS BY ADDING ARTICLE 6.05 TO CHAPTER 6, HEALTH AND SANITATION, ESTABLISHING REQUIRMENTS FOR POST-CONSTRUCTION STORM WATER FACILITY MAINTENANCE AND OBLIGATIONS; PROVIDING FOR ENFORCEMENT AND A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Whereas, the City Council of the City of Manor (the “City”) finds the establishment of post-construction storm water facility maintenance requirements and obligations within the City will promote the general health, safety, and welfare of the City;

Whereas, the City Council of the City finds that the general health, safety, and welfare of the City will be protected and promoted by the adoption and enforcement of post-construction storm water facilities maintenance requirements and regulations to enhance and protect the environment, ecology and waterways of and around the City;

Whereas, the increase in impervious surfaces such as rooftops, roads and parking lots can increase urban runoff and have a detrimental impact on aquatic ecosystems due to increased concentrations of sediment, nutrients, pesticides, road salts, heavy metals, pathogenic bacteria and petroleum hydrocarbons;

Whereas, storm water runoff from developed areas can potentially contribute significant amounts of pollution to lakes and streams; and

Whereas, the City Council of the City desires to adopt post-construction storm water facilities regulations to ensure that best management practices are incorporated into development projects and provide for the long-term operation and maintenance of post-construction storm water facilities;

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

Section 1. Findings. The forgoing recitals are incorporated into this Ordinance as true and correct findings of fact.

Section 2. Amendment of Code of Ordinances. The City Council hereby amends Chapter 6 Health and Sanitation, of the City’s Code of Ordinances to add a new *Article 6.05. Storm Water Facility Maintenance* section, attached hereto as Exhibit “A” and incorporated herein for all purposes.

Section 3. Repealing All Ordinances in Conflict. All other ordinances or parts of ordinances inconsistent or in conflict herewith, or to the extent of such inconsistency or conflict are hereby amended to the extent of such inconsistency or conflict. In the event of a conflict between this Ordinance and another ordinance of the City, this Ordinance shall control.

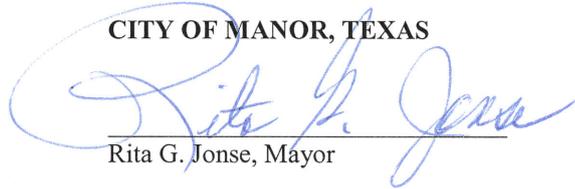
Section 4. Savings Clause. This City Council of the City of Manor, Texas does hereby declares that if any section, subsection, paragraph, sentence, clause, phrase, work or portion of this Ordinance is declared invalid, or unconstitutional, by a court of competent jurisdiction, that, in such event that it would have passed and ordained any and all remaining portions of this Ordinance without the inclusion of that portion or portions which may be so found to be unconstitutional or invalid, and declare that its intent is to make no portion of this Ordinance dependent upon the validity of any portion thereof, and that all said remaining portions shall continue in full force and effect.

Section 5. Compliance With Open Meetings Act. It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

Section 6. Effective Date. This Ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the Local Government Code.

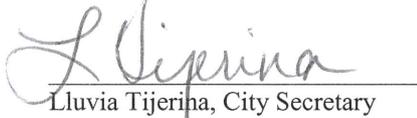
PASSED AND APPROVED on this the 15th day of November 2017.

CITY OF MANOR, TEXAS



Rita G. Jonse, Mayor

ATTEST:



Lluvia Tijerina, City Secretary



Exhibit "A"**ARTICLE 6.05 STORM WATER FACILITY MAINTENANCE****Sec. 6.05.001 Definitions**

Best Management Practices (BMPs). Methods that have been determined to be the most effective, practical means of preventing or reducing pollution from non-point sources, such as pollutants carried by urban runoff. These methods can be structural (e.g., devices, ponds, engineered or constructed to prevent or manage storm water) or non-structural (e.g., policies to reduce imperviousness). BMPs classified as "non-structural" are those that rely predominantly on behavioral changes rather than construction in order to be effective.

- (a) "Structural" BMPs are engineered or constructed to prevent or manage storm water.
- (b) BMPs also include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Pollution. The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any surface water in the State that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Storm Water. Any surface flow, runoff, and discharge consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Surface Water in the State. Lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state (from the mean high water mark (MHW) out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment systems that are created for the purpose of waste treatment are not considered to be water in the state.

Texas Commission on Environmental Quality (TCEQ). The State of Texas agency by that name, the regional offices thereof, any state department, agency, or commission that may succeed to the authority of the TCEQ, and any duly authorized official of TCEQ or such successor agency.

Sec. 6.05.002 Purpose

Structural BMPs storm water facilities are permanent and used to control and manage pollution caused by runoff after construction is completed. The City desires to implement regulations requiring post-construction structural BMPs to be incorporated into development projects and provide for the long-term operation and maintenance of post-construction BMPs facilities and the ability to enforce such regulations.

Sec. 6.05.003 Operation, Maintenance And Repair of Storm Water Facilities

- (a) Responsibility for Maintenance of Permanent BMPs and Measures after Construction is Complete.
 - (1) The applicant is responsible for maintaining the permanent BMPs after construction until such time as the maintenance obligation is either assumed in writing by another entity having ownership or

control of the property (such as but without limitation: an owner's association, a new property owner or lessee, a district, or municipality) or the ownership of the property is transferred to the City, as provided in subsections (b) and (c) below. The City shall then be responsible for maintenance until another entity assumes such obligations in writing or ownership is transferred. If a TCEQ Contributing Zone Plan or other TCEQ requirements are applicable to a specific permanent storm water facility, then the responsible party shall adhere to Attachment N of the Plan as specified by the TCEQ after completion of construction activities.

(b) Commercial and Multi-Family Properties

(1) The maintenance and repair of storm water facilities for commercial and multi-family properties shall be the responsibility of the property owner and the person in control of the property, if different from the property owner. The storm water facilities shall be maintained in good repair and working order in accordance with BMPs, this Ordinance, applicable state and federal law, and good engineering practices.

(2) At least once each year, the property owner or person in control of the property shall cause the storm water facility to be inspected and an inspection report provided by a person qualified to inspect storm water facilities. The inspection report shall be maintained on file at the property at all times and shall be made available to the City upon request. The property owner and/or person in control of the storm water detention facility shall promptly repair any deficiencies identified in the inspection report.

(3) Prior to the issuance of a Certificate of Occupancy or Certificate of Completion for a property upon which a storm water management facility will be located, the property owner must execute an access easement agreement with the City in a form acceptable to the City that binds all subsequent owners of land served by the storm water management facility, which allows the City or its contractor/agent access to the facility to periodically inspect if the facility is maintained in proper working condition and meets design standards and other provisions established by this Article. The easement agreement shall be recorded in the appropriate County land records.

(4) In the event that a storm water facility will be shared by two or more properties, in addition to the other requirements, the property owners sharing the storm water facility shall execute such agreements, covenants, and easements reasonably required by the City to address joint use of and access to the storm water facilities.

(c) Single Family and Two-Family Residential

(1) All storm water management facilities in areas designated as single or two-family residential that are accepted by the City for maintenance and operation will be maintained by the City as provided herein, the plat notes and/or restrictive covenants for the subdivision, or an agreement between the City and the developer of the subdivision or the HOA as appropriate. The City's maintenance and repair obligations shall include: removal of silt, litter, and other debris from all catch basins, inlets, and drainage pipes. The City will also maintain the functionality of water quality improvements contained in open channels, detention, and water quality areas. The property owner or person in control of the property upon which the BMPs storm water facilities are located will be responsible for cutting grass, removal of litter and debris, vegetation removal, and maintenance or replacement of landscape vegetation within open channels, detention and water quality areas. Maintenance needs that are the obligation of the property owner or person in control of the property must be addressed in a timely manner as determined by the City. Storm water management facilities shall be located in drainage easements in a form acceptable to the City, and shall be subject to such other agreements and requirements to ensure compliance with this Article. The property owner or person in control of the property shall promptly notify the City of any conditions that require maintenance or repair that are the

obligation of the City.

(d) Failure to Maintain Practices

(1) If the storm water management facility becomes a danger to public safety or public health, the City shall notify the party responsible for maintenance of the storm water management facility in writing and may post a placard at the property. Upon receipt of that notice, the responsible person shall have ten (10) days to fulfill adequate BMPs, maintenance and repair requirements. If the owner of the facility fails to comply with the requirements of the maintenance covenant, the City, after reasonable notice, may perform all necessary work to bring the facility into compliance and charge the owner for the actual cost of the work and file any liens against the property as permitted by law.

Sec. 6.05.004 Penalty; Enforcement

(a) Any person who shall violate any of the provisions of this Article, or shall fail to comply therewith, or with any of the requirements thereof, within the City limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of five hundred dollars (\$500.00). Each day the violation exists shall constitute a separate offense. Proof of culpable mental state shall not be required to establish a violation of this Article. Such penalty shall be in addition to all the other remedies provided herein.

(b) Any person who shall remove a notice of violation or a placard posted pursuant to this Article from a property prior to correction of the deficiencies indicated thereon shall be deemed guilty of a misdemeanor offense.

(c) No certificate of occupancy or utility tap shall be issued by the City for or with respect to any lot, tract or parcel of land within the City limits that is not in compliance with this Article.

(d) Any person who shall occupy a building, or any part thereof, without having received a Certificate of Occupancy, within the City limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.