

Irving, TX Code of Ordinances

Sec. 41-64. - Stormwater discharges—From construction activities.

General requirements.

- (1) All operators of construction sites shall use best management practices to control and reduce the discharge, to the MS4 and to waters of the United States, of sediment, silt, earth, soil, and other material associated with the clearing, grading, excavation, and other construction activities to the maximum extent practicable. Such best management practices may include, but not be limited to, the following measures:
 - a. Ensuring that existing vegetation is preserved where feasible and that disturbed portions of the site are stabilized as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased. Stabilization measures may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures;
 - b. Use of structural practices to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from the site to the extent feasible;
 - c. Minimization of the tracking of sediments off-site by vehicles, the generation of dust, and the escape of other windblown waste from the site;
 - d. Prevention of the discharge of building materials, including cement, lime, concrete, and mortar, to the MS4 or waters of the United States;
 - e. Providing general good housekeeping measures to prevent and contain spills of paints, solvents, fuels, septic waste, and other hazardous chemicals and pollutants associated with construction, and to assure proper cleanup and disposal of any such spills in compliance with state, federal, and local requirements;
 - f. Implementation of proper waste disposal and waste management techniques, including covering waste materials and minimizing ground contact with hazardous chemicals and trash;
 - g. Timely maintenance of vegetation, erosion and sediment control measures, and other best management practices in good and effective operating condition; and
 - h. Installation of structural measures during the construction process to control pollutants in stormwater discharges that will occur after construction operations have been completed. Structural measures should be placed on upland soils to the degree attainable. Such installed structural measures may include, but are not limited to, the following: stormwater detention structures (including wet ponds); stormwater retention structures; flow attenuation by use of open vegetative swales and natural depressions; other velocity dissipation devices; infiltration of runoff on site; and sequential systems which combine several practices. Operators of construction sites are only responsible for the installation and maintenance of stormwater management measures prior to final stabilization of the site, and are not responsible for maintenance after stormwater discharges associated with construction activity have terminated.
- (2) Qualified personnel (provided by the operator of the construction site) shall inspect disturbed areas of any construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every seven (7) calendar days and within twenty-four (24) hours of the end of a storm that is 0.5 inches or greater. Construction site operators shall observe all erosion and sediment control measures and other identified best management practices be in order to ensure that they are operating correctly and are effective in preventing

significant impacts to receiving waters and the MS4. Based on the results of the inspection, best management practices shall be revised as appropriate, and as soon as is practicable.

- (3) The director may require any plans and specifications that are prepared for the construction of site improvements to illustrate and describe the best management practices required by section 4168(a)(1) above that will be implemented at the construction site. The city may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other city approval necessary to commence or continue construction, or to assume occupancy, on the grounds that the management practices described in the plans or observed upon a site inspection by the director are determined not to control and reduce the discharge of sediment, silt, earth, soil, and other materials associated with clearing, grading, excavation, and other construction activities to the maximum extent practicable.
- (4) Any owner of a site of construction activity, whether or not he/she is an operator, is jointly and severally responsible for compliance with the requirements in this section.
- (5) Any contractor or subcontractor on a site of construction activity, who is not an owner or operator, but who is responsible under his/her contract or subcontract for implementing a best management practices control measure, is jointly and severally responsible for any willful or negligent failure on his/her part to adequately implement that control measure if the failure causes or contributes to causing the city to violate a water quality standard, the city's NPDES permit, or any state-issued discharge permit for discharges from its MS4.
- (6) Five-acre disturbances. All operators of sites of construction activity, including clearing, grading, and excavation activities, that result in the disturbance of five (5) or more acres of total land area, or that are part of a common plan of development or sale within which five (5) or more acres of total land area are disturbed, or who are required to obtain an NPDES permit for stormwater discharges associated with construction activity, or that the director determines to be harmful quantities, shall comply with the following requirements:
- (7) Any operator who intends to obtain coverage for stormwater discharges from a construction site under the NPDES general permit for stormwater discharges from construction sites ("the construction general permit") shall submit a signed copy of its notice of intent (NOI) to the director at least two (2) days prior to the commencement of construction activities. If the construction activity is already underway upon the effective date of this article, the NOI shall be submitted within thirty (30) days. For stormwater discharges from construction sites where the operator changes, an NOI shall be submitted at least two (2) days prior to when the operator commences work at the site.
- (8) A stormwater pollution prevention plan (SWPPP) shall be prepared and implemented in compliance with the requirements of the construction general permit or any individual or group NPDES permit issued for stormwater discharges from the construction site, and with any additional requirement imposed by or under this article.
- (9) The SWPPP shall be prepared, signed and sealed by a registered professional engineer.
- (10) The SWPPP shall be completed prior to the submittal of the NOI to the director and, for new construction, prior to the commencement of construction activities. The SWPPP shall be updated and modified as appropriate and as required by the construction general permit and this article.
- (11) The applicant shall submitted a copy of any required NOI to the city in conjunction with any application for a building permit, grading permit, site development plan approval, and any other city approval necessary to commence or continue construction at the site.
- (12) The director may require any operator who is required to prepare a SWPPP to submit the SWPPP, and any modifications to it, to the director for review. Such submittal and review of the SWPPP may be required by the director prior to commencement of or during construction activities at the site.

- (13) Upon the director review of the SWPPP and any site inspection that he/she may conduct, the city may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other city approval necessary to commence or continue construction, or to assume occupancy, on the grounds that the SWPPP does not comply with the requirements of the construction general permit, any individual or group NPDES permit issued for stormwater discharge from the construction site, or any additional requirement imposed by or under this article.
- (14) Any significant modification to the SWPPP shall be prepared, signed, and sealed by a registered professional engineer as required for the original SWPPP.
- (15) All contractors and subcontractors identified in an SWPPP shall sign a copy of the following certification statement before conducting any professional service identified in the SWPPP:
- "I certify under penalty of law that I understand the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) permit that authorizes the stormwater discharges associated with industrial activity from the construction site identified as part of this certification, with the Stormwater Article X, Chapter 41 of the Code of Civil and Criminal Ordinances of the City of Irving, and with those provisions of the Stormwater Pollution Prevention Plan (SWPPP) for the construction site for which I am responsible."
- The certification must include the name and title of the person providing the signature; the name, address, and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- (16) The SWPPP, with the registered professional engineers signature and seal affixed, and the certifications of contractors and subcontractors, and with any modifications attached, shall be retained at the construction site from the date of commencement of construction through the date of final stabilization.
- (17) The operator shall make the SWPPP and any modification to it available to the director upon request.
- (18) The director may notify the operator at any time that the SWPPP does not meet the requirements of the construction general permit, any applicable individual or group NPDES permit issued for stormwater discharges from the construction site, or any additional requirement imposed by or under this article. Such notification shall identify those provisions of the permit or this article which are not being met by the SWPPP, and identify which provisions of the SWPPP require modifications in order to meet such requirements. Within seven (7) days of notification from the director (or as otherwise provided by the director), the operator shall make the required changes to the SWPPP and shall submit to the director a written certification that the requested changes have been made.
- (19) The operator shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, and which has not otherwise been addressed in the SWPPP, or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges associated with construction activity. In addition the operator shall amend the SWPPP to identify any new contractor and/or subcontractor that will implement a measure in the SWPPP.
- (20) Qualified personnel (provided by the operator of the construction site) shall inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every seven (7) calendar days and within twenty-four (24) hours of the end of a storm that drops precipitation 0.5 inches or greater at the site. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system.

Erosion and sediment control measures identified in the SWPPP shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters or the MS4. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.

- (21) Based on the results of the inspections required by section 41-68(b)(14), the site description and/or the pollution prevention measures identified in the SWPPP shall be revised as appropriate, but in no case later than seven (7) calendar days following the inspection. Such modifications shall provide for timely implementation of any changes to the SWPPP within seven (7) calendar days following the inspection.
- (22) A report summarizing the scope of any inspection required by section 41-68(b)(14), and the name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in compliance with this article shall be made and retained as part of the SWPPP for at least three (3) years from the date that the site is finally stabilized. The report shall identify any incidence of noncompliance. Where a report does not identify any incidence of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP, the facility's NPDES permit, and this article. The person responsible for, making the report shall certify and sign it.
- (23) The operator shall retain copies of any SWPPP and all reports required by this article or by the NPDES permit for the site, and records of all data used to complete the NOI, for a period of at least three (3) years from the date that the site is finally stabilized.
- (24) Where a site has been finally stabilized and all stormwater discharges from construction activities that are authorized by this article and by the NPDES permit for those construction activities are eliminated, or where the operator of all stormwater discharges at a facility changes, the operator of the construction site shall submit to the director a notice of termination (NOT) that includes the information required for notices of termination by Part VIII of the construction general permit.

(Ord. No. 8140, § 1, 3-20-03)