

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF CARROLLTON, TEXAS, AMENDING THE CARROLLTON CITY CODE BY AMENDING TITLE XVII, CHAPTER 173 SECTIONS 173.02, 173.04, 173.05, 173.07, 173.08, 173.09, 173.12, AND 173.13 IN CONTINUATION OF THE EXISTING STORMWATER POLLUTION PREVENTION PROGRAM; PROVIDING PENALTY, SAVINGS, AND SEVERABILITY CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Carrollton, Texas (the “City”) is a Home Rule municipality possessing the full power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code and its Home Rule Charter; and

WHEREAS, Section 54.004 of the Texas Local Government Code provides that a home rule municipality may enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants; and

WHEREAS, the City Council finds that amending Chapter 173 of the Carrollton City Code will increase the effectiveness and clarity of the Stormwater Pollution Prevention regulations controlled by the City; and,

WHEREAS, the City Council, after determining all legal requirements of notice and hearing have been met, has further determined the following amendments to the Stormwater Pollution Prevention regulations would provide for and would be in the best interest to safeguard life, health, property and public welfare.

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

SECTION 1.

Section 173.02 Definitions of the Code of Ordinances, City of Carrollton, is hereby amended to include the definition of Commercial Cosmetic Cleaning to read as follows:

“*Commercial Cosmetic Cleaning.* Commercial power washing, steam cleaning, and any other cosmetic cleaning operations of vehicles, parking lots, buildings, and other exterior surfaces, conducted for commercial purposes.”

SECTION 2.

Section 173.04(C) of the Code of Ordinances, City of Carrollton, is hereby amended to include amendments in Section 173.04(C) and the addition of Sections 173.04(C)(26) and 173.04(C)(27) to read as follows:

“(C) No person may dispose of, release, discharge, or otherwise introduce, cause, suffer, allow, or permit to be introduced any of the following substances into or that may reach the MS4 or into or adjacent to any water body:

- (26) Paint or paint-related materials;
- (27) any solid waste, hazardous waste or regulated waste, including use or storage in a manner that the material could enter the MS4.”

SECTION 3.

Section 173.04(F) of the Code of Ordinances, City of Carrollton, is hereby amended to read as follows:

- “(F) No person may dispose of, deposit or allow to accumulate wastewater, liquid waste or pollutants on public or private property.”

SECTION 4.

Section 173.05 of the Code of Ordinances, City of Carrollton, Texas, is hereby amended to amend the title of 173.05, to add a title for Section 173.05(A) and to add Section 173.05(B) to read as follows:

“Sec. 173.05. – Regulation of Pesticides, Herbicides, Fertilizers and Cosmetic Cleaning and Commercial Mobile Cleaning Operations.

(A) Regulation of Pesticides, Herbicides, and Fertilizers.

- (1) No person may use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation.
- (2) No person may use or cause to be used any pesticide, herbicide, or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of pesticide, herbicide, or fertilizer to enter the MS4 or surface water in the state or the waters of the U.S.
- (3) No person may dispose of, discard, store, or transport a pesticide, herbicide or fertilizer, or a pesticide, herbicide or fertilizer container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide or fertilizer to enter the MS4 or surface water in the state or the waters of the U.S.
- (4) A license, permit, registration, certification, or evidence of financial responsibility required by state or federal law for the sale, distribution, application, manufacture, transportation, storage, or disposal of a pesticide, herbicide, or fertilizer must be presented to the DCO for examination upon request.

(B) Regulation of Commercial Cosmetic Cleaning and Mobile Cleaning Operations.

- (1) Commercial cosmetic cleaning or mobile cleaning operations may not discharge any wastewater or contaminated water to the MS4. Wastewater or contaminated water from these operations must be contained, collected, and disposed of properly.
- (2) Contaminated water from commercial cosmetic or mobile cleaning operations includes, but is not limited to:
 - (a) Water containing soap, detergent, degreaser, solvent or other potentially harmful cleaning substances, including biodegradable products;
 - (b) Any wastewater from the washdown or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of the released material have been previously removed; or,
 - (c) Wastewater with excessive amounts of sediments; or
 - (d) Wastewater from power washing.
- (3) Best management practices must be used to the maximum extent practicable to prevent contaminants from entering the MS4. BMPs include, but are not limited to:
 - (a) Picking up litter and debris, sweeping up accumulated sediment and dirt, and sealing the waste in trash bags and placing the bags in a trash receptacle.
 - (b) Removing oil and grease spots, leaks, or spills with a dry absorbent, sweeping up the absorbent, and disposing of it in accordance with state or federal requirements.
 - (c) Blocking storm drain inlets or flows of drainage to contain wastewater on the property and collecting it for proper disposal.
- (4) Wastewater resulting from commercial cosmetic cleaning and mobile cleaning operations must be disposed of in an approved manner. Any discharges to the sanitary sewer system must meet the requirements of the Wastewater Pretreatment Ordinance, Title XVII, Chapter 171. Discharges to the sanitary sewer must be filtered using a 200 Mesh screen or smaller to remove silt, sand, sludge, and debris. Wastewater containing hydrocarbons must also be filtered through an oil absorbent filter or oil/water separator.
- (5) Wastewater may also be hauled off-site and disposed of by an environmental waste company. Disposal in this method must meet the requirements of the city's Liquid Waste Ordinance, Title XVII, Chapter 172."

SECTION 5.

Section 173.07 of the Code of Ordinances, City of Carrollton, Texas, is hereby amended to add Section 173.07(10) to read as follows:

“(10) Installation and maintenance of erosion and sediment controls.”

SECTION 6.

Section 173.08 of the Code of Ordinances, City of Carrollton, Texas, is hereby amended and Section 173.08(B) added to read as follows:

“Sec. 173.08 – One acre or greater land disturbances and post-construction regulations

(A) One acre or greater land disturbances

All operators of sites of construction activity, including clearing, grading, excavation, demolitions, and land filling activities, that result in the disturbance of one or more acres of total land area, or that are part of a larger common plan of development or sale within which one or more acres of total land area are disturbed, and who are required to obtain a TPDES permit for stormwater discharges associated with construction activity, must comply with the following requirements (in addition to those in Section 173.08):

- (1) All operators must obtain coverage for stormwater discharges from a construction site under the TPDES General Permit, must post a signed copy of its Construction Site Notice (CSN) on the construction site prior to the commencement of construction activities. The notices required to be posted will depend on the size of the construction project and is explained in the TPDES General Permit for construction activities. The CSN must be posted in a location where it is safely and readily available for viewing by the general public, local, state, and federal authorities. For large construction sites, a signed copy of the NOI and CSN from all operators must be submitted to the DCO seven (7) days prior to the commencement of construction activities. For small construction sites, a signed copy of the CSN from all operators must be submitted to the DCO at least two (2) days prior to the commencement of construction activities.
- (2) A Stormwater Pollution Prevention Plan (SWPPP) must be prepared and implemented in accordance with the requirements of the TPDES permit issued for stormwater discharges from the construction site, and in accordance with any additional requirements imposed by or under this ordinance and any other city ordinance.
- (3) The SWPPP must be completed and implemented prior to the beginning of construction activities. The SWPPP must be updated and modified as required by the TPDES permit and this ordinance.

- (4) The operator must submit the SWPPP and any modifications thereto to the DCO for review prior to commencement of construction activity at the site.
- (5) If, upon the DCO's review of the SWPPP (or any modification to the SWPPP) and any site inspection that the DCO may conduct, the DCO determines that the SWPPP does not comply with the requirements of the TPDES permit issued for stormwater discharge from the construction site, or any additional requirement imposed by or under this ordinance, the DCO may issue an order prohibiting the commencement or the continuation of any construction activity at the site. Also, if at any time the DCO determines that the SWPPP is not being fully implemented the DCO may similarly issue an order prohibiting the continuation of any construction activity at the site.
- (6) Upon review of the SWPPP and any site inspection that is conducted, the DCO may deny approval of any building permit, grading permit, 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 permit issued for stormwater discharge from the construction site, or any additional requirement imposed by or under this ordinance. Also, if at any time the DCO determines that the SWPPP is not being fully implemented, the DCO may similarly deny approval of any building permit, grading permit, or any other City approval necessary to commence or continue construction, or to assume occupancy, at the site.
- (7) All operators identified in the SWPPP must 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 Texas Pollutant Discharge Elimination System (TPDES) permit and any modification by the State of Texas that authorizes the stormwater discharges associated with industrial activity from the construction site identified as part of this certification, the Stormwater Pollution Prevention Ordinance of the City of Carrollton, and 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.

- (8) The SWPPP and the certifications of all operators required by Section 173.08(A)(7), and with any modifications attached, must be retained at the construction site from the date of commencement of construction through the date of final stabilization.

- (9) The operator must make a copy of the SWPPP and any modification thereto available to the DCO at the construction site upon request.
- (10) The DCO may notify the operator at any time that the SWPPP does not meet the requirements of the TPDES permit issued for stormwater discharges from the construction site, or any additional requirement imposed by or under this ordinance. Such notification must identify those provisions of the permit or ordinance 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) calendar days of such notification from the DCO (or as otherwise provided by the DCO), the operator must make the required changes to the SWPPP and submit to the DCO a written certification that the requested modifications have been made.
- (11) The operator must modify 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 surface water in the state, or the waters of the U. S., or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in achieving the general objective of controlling pollutants in stormwater discharges associated with construction activity.
- (12) Qualified personnel (provided by the operator) must inspect at least once every fourteen (14) calendar days and within twenty-four (24) hours of the end of any rain event that is 0.5 inches or greater: 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. Inspections may be performed once every seven calendar days, on a specifically defined day, regardless of whether or not there has been a rainfall event. Disturbed areas and areas used for storage of materials that are exposed to precipitation must be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures and best management practices must be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they must be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters and the MS4. Locations where vehicles enter or exit the site must be inspected for evidence of off-site sediment tracking.
- (13) All protective measures in the SWPPP must be maintained in effective operating condition. If, through inspections or other means, the operator determines that BMPs are not operating effectively, then the operator shall perform maintenance as necessary to maintain the continued effectiveness of stormwater controls, prior to the next rain event if feasible. If maintenance prior to the next anticipated rain event is impracticable, the reason shall be documented in the SWPPP and maintenance must be scheduled and accomplished as soon as practicable, but in no case later than seven (7) calendar days following the inspection. Erosion and

sediment controls that have been intentionally disabled, run over, removed, or otherwise rendered ineffective must be replaced or corrected immediately upon discovery.

- (14) A report summarizing the scope of any inspection required by Section 173.08(12) 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 accordance with appropriate plan revisions must be made and retained as part of the SWPPP. The report must identify any incidence of noncompliance; or if the report does not identify any incidence of noncompliance, the report must contain a certification that the facility is in compliance with the SWPPP, the TPDES permit, and this ordinance. The report must be signed by the person responsible for making it.
 - (15) The operator must retain copies of any SWPPP and all reports required by this ordinance or by the TPDES permit for the site, for a period of at least three years from the date that the site is finally stabilized, and the required CSN or Notice of Termination (NOT) has been submitted. Such plans, reports and records must be made available to the DCO upon request.
 - (16) Where a site has been finally stabilized and all stormwater discharges from construction activities that are authorized by this ordinance and by the TPDES permit are eliminated, or where the operator of all stormwater discharges from the construction site changes, the operator of the construction site must submit to the DCO a copy of the CSN or NOT as required by the TPDES Construction General Permit.
 - (17) The City may withhold an occupancy permit for any premises constructed on the site until such certification of final stabilization has been filed and the DCO has determined, following any appropriate inspection, that final stabilization has in fact occurred, that any required permanent structural controls have been completed and all temporary controls have been removed.
- (B) Post-Construction Requirements.
- (1) The owner or operator must ensure all temporary control measures for erosion control or other BMPs are removed once final stabilization has been achieved.
 - (2) The owner or operator must ensure all long-term operation and maintenance of post-construction stormwater runoff control mechanisms, such as detention and retention basins, dry wells, and other measures.”

SECTION 7.

Sections 173.09(A)(1), (A)(6), (A)(13), (A)(14) of the Code of Ordinances, City of Carrollton, Texas, are hereby amended and Section 173.09(A)(20) is added to read as follows:

- “(1) All operators required to obtain industrial stormwater coverage must obtain the appropriate authorization as specified in the NPDES or TPDES Multi-Sector General Permit. Any operator who intends to obtain coverage for stormwater discharges associated with industrial activity under the TPDES Stormwater Multi-Sector General Permit for Industrial Activities (Multi-Sector General Permit) or an NPDES permit for oil and gas industrial activities, must submit a signed copy of his Notice of Intent (NOI) to the DCO at least fifteen (15) calendar days prior to the commencement of the industrial activity at the facility. For stormwater discharges associated with industrial activity where the operator changes, a copy of the required NOI must be submitted at least two (2) calendar days prior to the change. Facilities that qualify for the No Exposure Certification (NEC) must submit copies of the certification to the DCO.
- (6) The SWPPP, with any modifications attached, must be retained at the industrial site from the date of commencement of operations and for 3 years after all stormwater discharges associated with industrial activity at the facility are eliminated, and the required Notice of Termination (NOT) has been submitted in accordance with the appropriate NPDES or TPDES permit.
- (13) If the industrial facility is required by the appropriate NPDES or TPDES permit to conduct monitoring, the required monitoring must be conducted, and records of the monitoring results must be retained at the facility and made available to the DCO upon request.
- (14) By written notice, the DCO may require any industrial facility identified in accordance with this section to implement a monitoring program, at the industrial facility’s expense, that includes the submission of quantitative data on the following constituents:
- (a) any pollutants limited in effluent guidelines subcategories; where applicable;
 - (b) any pollutant listed in an existing NPDES or TPDES permit for the facility;
 - (c) oil and grease, COD, pH, BOD5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen; and
 - (d) information on discharges required under 40 CFR 122.21(g)(7)(ii), (iii) and (iv).

Written reports of any of such monitoring results must be retained at the facility and made available to the DCO upon request.

- (20) The operator must implement proper waste disposal and waste management techniques including installing and maintaining covered receptacles for rubbish,

garbage, and recyclables to assure that such waste materials are not blown or carried by rainfall runoff from the site.”

SECTION 8.

Sections 173.12(C) and 173.12(D) of the Code of Ordinances, City of Carrollton, Texas, are hereby amended to read as follows:

- “(C) The operator and the owner of any commercial or industrial activity must report any spills, releases, illicit connections, or other instances where pollutants are discharged into the MS4, surface water in the state, or the waters of the U.S. and any other violation of this ordinance for which they are responsible to the City in accordance with the following:
- (1) A hazardous and/or toxic material spill or release to any surface must be immediately reported to the Carrollton Fire Department at 911 and Environmental Services available after business hours through 911.
 - (2) Other instances where pollutants are discharged into the MS4, surface water in the state, or the waters of the U.S. by spill, release, illicit connections or other means must be reported to the Carrollton Fire Department at 911 and Environmental Services available after business hours through 911.
- (D) Both the operator and the owner of any commercial or industrial activity, where a spill or a release of a hazardous/toxic material or a substance of a polluting nature has occurred, are responsible for proper notification of the incident to the City and the appropriate county, state, and federal agency. The reporting of a spill/release to the City does not release or remove any obligation of the owner or operator from reporting to appropriate county, state and federal agencies.

These officials may include, but not be limited to:

1. The City of Carrollton’s Fire Department and Environmental Services
2. National Response Center
3. Texas Commission on Environmental Quality
4. U.S. Environmental Protection Agency
5. Dallas County Fire Marshal’s Office on behalf of the Dallas County Local Emergency Planning Committee (LEPC)
6. Texas Department of Parks and Wildlife
7. U.S. Fish & Wildlife Service.”

SECTION 9.

That Section 173.13 (A) of the Code of Ordinances, City of Carrollton, Texas, is hereby amended to read as follows:

“(A) A discharger of a reportable quantity of a hazardous or extremely hazardous substance to an outside surface or into the MS4, surface water in the state, or the waters of the U.S., must telephone 911 and notify the Carrollton Fire Department and Environmental Services immediately after becoming aware of the discharge. A discharger of any of the following substances into the MS4, surface water in the state, or the waters of the U.S. must telephone and notify the DCO concerning the incident within one (1) hour after its occurrence or the first knowledge of its occurrence:

- (1) An amount of oil that either:
 - (a) Violates applicable water quality standards; or
 - (b) Causes a film or sheen upon, or discoloration of, the surface of the water or an adjoining shoreline, or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline.
- (2) A harmful quantity of any other pollutant that is not a hazardous or extremely hazardous substance.”

SECTION 10.

Any person, violating a provision of this ordinance, upon conviction, is guilty of a misdemeanor offense punishable as provided in Section 10.99 of the Carrollton City Code.

SECTION 11.

Save and except as amended by this ordinance, all provisions of Chapter 173 and other ordinances of the City of Carrollton, Texas shall remain in full force and effect.

SECTION 12.

The provisions of this ordinance are severable in accordance with Section 10.07 of the Carrollton City Code. If any section, sub-section, paragraph, clause, phrase or provision of this ordinance, or its application to any person or circumstance shall be adjudged or held invalid, that invalidity shall not affect the provisions that can be given effect without the invalid provision or application.

SECTION 13.

This ordinance shall take effect immediately from and after its adoption and publication.

DULY PASSED AND APPROVED by the City Council of the City of Carrollton, Texas, this 1st day of December, 2015.

Matthew Marchant, Mayor

ATTEST:

Krystle F. Nelinson, City Secretary

APPROVED AS TO FORM:

Susan Keller
Assistant City Attorney

APPROVED AS TO CONTENT:

Scott Hudson
Environmental Services Director