

**NORTHTOWN MUNICIPAL UTILITY DISTRICT
SECOND AMENDED EROSION CONTROL RULES AND RULES REGARDING
PROTECTION OF DISTRICT UTILITY SYSTEMS**

(September 22, 2009)

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

WHEREAS, Northtown Municipal Utility District (the “*District*”) was created for, among other purposes, the purposes set forth in Section 54.012 of the *Texas Water Code*; and

WHEREAS, Section 54.205 of the *Texas Water Code* authorizes the District to adopt and enforce all reasonable and necessary rules; and

WHEREAS, the Board of Directors of the District previously adopted rules to protect the District’s utility facilities and water quality within the District and now desires to adopt these amended rules in coordination with the District’s Storm Water Management Program, which was developed under Texas Pollutant Discharge Elimination System Small Municipal Separate Storm Sewer System (MS4) General Permit (TXR040347).

IT IS THEREFORE RESOLVED BY THE BOARD OF DIRECTORS OF THE DISTRICT AS FOLLOWS:

Section 1. The following rules (“*Rules*”) are hereby adopted:

1. Inspections, Agents, Notice.

A. Any builder, developer, contractor, utility company or other person or entity who disturbs the surface of the ground within the District (each of whom is referred to in these rules as a “*developer*”) must allow the District’s designated representative to enter onto the affected land in order to inspect and monitor conditions on the land during the plan approval stage and during all periods of development and construction.

B. All developers must provide the District with the name and current street address of one designated agent to whom any notice required or permitted to be given by the District under these Rules may be given.

C. All developers must notify the District’s manager at least 48 hours prior to:

1. Conducting a pre-construction conference;
2. Installing erosion controls; or
3. Making any connection to the District’s utility systems.

2. Acceptance of Facilities for Operation and Maintenance.

A. All facilities constructed as a part of the District's utility systems must be constructed in a good and workmanlike manner and all material used in such construction must be free from defects and fit for its intended purpose. Upon completion of construction of any project, the District must be provided with (a) final, "record" drawings, approved and certified by the project engineer; (b) a copy of the Notice of Termination or "NOT" submitted to the Texas Commission on Environmental Quality ("TCEQ"); and (c) a certificate of completion from the project engineer certifying: (1) that the construction of the facilities has been completed in accordance with the plans and specifications approved by the District; (2) that the required "record" drawings have been furnished to the District; and (3) that the facilities are clear of construction material, dirt and debris. No facilities will be accepted for operation and maintenance by the District until the items listed in (a)-(c) above are provided to the District and the facilities proposed to be accepted and any existing District facilities, including drainage facilities which have been impacted by the construction or development activities of the developer in question, have been cleared of all foreign materials, dirt and debris generated by the construction of the facilities, the development of the subdivision to be served by the facilities, or the construction of improvements within the subdivision, and the cleanup work has been approved by the District's authorized representative.

3. Pre-Construction Application and Plan Review; Erosion Control and Environmental Protection.

A. Prior to commencement of any development activity or construction within the District, plans for the proposed development or construction showing the locations and dimensions of all improvements; the locations, types and sequencing of all erosion and sedimentation control devices; all proposed tree protection during the development or construction period; all drainage improvements necessary to provide for detention, filtration, sediment removal, channelization and/or disposal of flood water, storm water, and run-off from and across the property and the plan for restoration and/or revegetation of the site after the construction or development period must be submitted to the District for review and approval. All plan submissions must be accompanied by the appropriate plan review fee, as specified in the District's rate order, and by an application form which includes a designation of the representative of the developer or builder who will serve as the contact person with regard to the project and the representative's mailing address and telephone number(s).

B. To be eligible for approval by the District, all plan submissions must include (a) a copy of the applicant's approved "storm water pollution prevention plan ("SWP3")"; (b) a copy of the Notice of Intent or "NOI" submitted to the TCEQ; and (c) a detailed plan sheet or sheets which reflect the methods to be used to control erosion during the development and/or construction period. These controls must meet the all applicable standards of the City of Austin and Travis County, as amended from time to time. For projects which will include both development and construction activities, two copies of a separate, auxiliary plan sheet demonstrating the erosion control plan for the construction phase must be submitted. For a single-family residential subdivision, the auxiliary sheet must provide for erosion control for each lot in the subdivision during construction on the lot and during any period within which the lot used is for construction- related activities such as staging or spoils.

C. In addition to the requirements of Section 2.B., all plan submissions for any construction, development or re-development project disturbing greater than or equal to one acre

of land (including projects disturbing less than one acre of land which are a part of a larger common plan of development), must include post-construction storm water quality controls which meet the applicable standards of Travis County and the City of Austin, including the City of Austin's Environmental Criteria Manual, in order to be eligible for the District's approval. Developers of such projects must provide for the long-term operation and maintenance of all post-construction storm water quality controls, unless the District accepts the controls for operation and maintenance.

D. All erosion controls required by the SWP3 must be installed prior to the initiation of site development or construction activity. No service will be provided to and no taps will be sold for any project until all required erosion control devices have been completed and a certificate of compliance has been issued by the project engineer.

E. All erosion control devices must be maintained in place and in good working condition at all times during development or construction. These devices will be subject to periodic inspection by the District's representative. If any erosion control device is determined to have been improperly installed or to have failed, the District's representative will provide written notice to the developer's designated representative, specifying the location and the defect or failure, and the developer will be given 24 hours from delivery of the notice to replace or repair the defective device. This time period may be extended by the District's representative due to weather conditions or other causes outside the control of the developer. If there are further improper installations or failures at the same site, or if the developer fails to effect a correction of the problem cited in a notice within the 24-hour period, or such longer time period as has been approved by the District's representative, it will constitute a violation of these Rules, and the District's representative may require modification of the developer's erosion control plan and/or impose a fine for the violation as provided in these Rules. The District's representative will also conduct inspections if any violations are noted in any SWP3 report or if the District is notified of any violations or erosion by any other governmental entity, including the City of Austin. The cost of any such inspections will be back-charged by the District to the responsible party. No connections to the District's utility systems will be approved for any area within the District until all back-charges and other sums relating to development or construction within the area which are due to the District have been paid.

F. Upon completion of construction or development, all construction debris and rubbish must be removed from the site, and any damage to the District's easements, drainage systems, or facilities must be repaired at the expense of the developer. No project will be considered complete or accepted by the District until all required restoration and revegetation has been completed, all non-permanent erosion and sedimentation controls have been removed from the site, and a certificate of compliance has been issued by the project engineer. If the District accepts any facilities prior to the removal of all temporary erosion control devices, the area must be reinspected prior to the expiration of the one-year maintenance bond period, and the devices must be removed, at the developer's expense, prior to release of the bond.

G. A construction dumpster or other sufficient, secure containers for the disposal of refuse must be maintained on-site or in immediate proximity to the site at all times during any construction activity on property within the District. An eight-by-eight plywood box may be used as a trash receptacle provided that it has four sides and trash is not allowed to flow out of it. Any trash container which is not located on the lot which it serves or which serves more than one

lot, must be placed in the immediate vicinity of the lots which it serves and clearly marked with the address(es) which it serves. No construction trash container may serve more than two lots. All construction debris, litter and other refuse must be placed within the approved containers and expressly may not be dumped, disposed of or left unsecured upon any property within the District. Lumber which is being used for actual construction on a site may remain on-site, but must be maintained in a neat and orderly manner and any debris from the cutting of the lumber must promptly be removed from the site and placed in a designated trash receptacle. No concrete may be placed or disposed of within the District except as part of approved, structural placements. Concrete from the washout of delivery trucks or equipment and waste concrete is considered construction debris, and all such debris must be removed from the District. Upon completion of construction, all containers and construction debris and rubbish that has been generated must be removed from the site, and any damage to the District's easements or facilities resulting from the construction must be repaired at the expense of the developer or builder. Causing or allowing any trash, debris or foreign material into or onto any property, easement or facility within the District will constitute a violation of these Rules.

4. Protection of Drainage Systems.

A. The District's drainage systems including all drainage easements, channels, storm sewer facilities and all other facilities owned, maintained or controlled by the District for the purpose of collecting, controlling, storing, managing or distributing storm and flood waters or run-off, will be protected from abuse in order to ensure the proper functioning of such facilities for the benefit of all property owners and residents of the District.

B. No foreign materials or debris including motor oil, grass, leaves and tree clippings, or trash and construction debris may ever be placed, thrown, disposed of, deposited, discharged or allowed to migrate into the District's drainage systems.

5. Additional Builder Responsibilities.

a. Each builder will be responsible for ensuring that the street in front of its lots remains free from the accumulation of trash, sediment, dirt and all other debris. Street cleaning will be done by street scraping or by using a vacuum sweeper. Washing sediment into the District's storm sewer inlets is prohibited, and will constitute a violation of these Rules.

b. Each builder must provide a single, dedicated concrete wash-out site on one of its reserved lots for use during construction. The site selected will be subject to approval by the District. The site must be identified by an identification sign approved by the District and installed by the builder prior to the commencement of the builder's construction program within the District. Silt fencing and an access pad must be installed along the curb in front of the wash-out site prior to the commencement of the builder's construction program.

The builder will be responsible for cleaning and maintaining its designated wash-out site as necessary, and for the proper and legal disposal of all concrete and debris. All silt fencing must be regularly maintained and kept in proper condition at all times. The builder must require all of its contractors and subcontractors of the location of the wash-out site and require that it be utilized.

Section 2. Any violation of these Rules will result in the offending party being subject to the payment of a fine in the amount of \$500 per offense. Each day of violation will constitute a separate offense. The offending party will also be liable for any costs incurred by the District in connection with any inspection, re-inspection, remedial action, repair or correction necessitated by a violation. In addition, if any violation is not corrected within five days after the delivery of written notice by the District, the District may, at its option (a) perform or have performed any of the developer's and/or builder's obligations under these Rules and to backcharge the cost of performance to the responsible builder or developer; and/or (b) discontinue the sale of taps to the responsible developer or builder until the violation is corrected and all related fines and/or backcharges paid.

Section 3. These Rules supersede any conflicting or inconsistent Rules previously adopted by the District. The District's attorney is directed to publish notice of the adoption of these Rules if required under Section 54.207, *Texas Water Code*.

ADOPTED this 22nd day of September, 2009.

**NORTHTOWN MUNICIPAL UTILITY
DISTRICT**

Robin Campbell, President
Board of Directors

ATTEST:

Scott Gray, Secretary
Board of Directors