

Mayor and Council Communication

DATE: 06/11/24

M&C FILE NUMBER: M&C 24-0484

LOG NAME: 20SW REGULATION UPDATES 2024

SUBJECT

(ALL) Conduct Public Hearing and Adopt Ordinance Amending Chapter 7 "Buildings," Article VIII "Floodplain Provisions" of the City Code to Establish and Regulate Critical Flood Risk Areas, Adopt Ordinance Amending Chapter 12.5 "Environment Protection and Compliance" of the City Code to Amend Regulations Governing Grading Permits, and Adopt Ordinance Adopting Revisions to the Stormwater Criteria Manual

(PUBLIC HEARING - a. Report of City Staff: Stephen Nichols; b. Public Comment; c. Council Action: Close Public Hearing and Act on M&C)

RECOMMENDATION:

It is recommended that the City Council:

1. Conduct a public hearing in accordance with Section 212.0021 of the Texas Local Government Code;
2. Adopt the attached ordinance amending Chapter 7 "Buildings," Article VIII "Floodplain Provisions" of the City Code to establish and regulate critical flood risk areas;
3. Adopt the attached ordinance amending Chapter 12.5 "Environmental Protection and Compliance" of the City Code to amend regulations governing grading permits; and
4. Adopt the attached ordinance adopting revisions to the Stormwater Criteria Manual.

DISCUSSION:

The purpose of this Mayor and Council Communication (M&C) is to adopt an ordinance establishing and regulating critical flood risk areas, adopt an ordinance amending regulations governing grading permits, and adopt an ordinance adopting updates to the Stormwater Criteria Manual.

Floodplain Provisions Ordinance:

In 2018, the Stormwater Management Program began an initiative to determine how to communicate non-FEMA flood risk information and how to regulate small sized developments (under 1 acre) in non-FEMA flood prone areas. The initiative was developed due to increasing instances of property owners and developers outside of the FEMA floodplain being surprised by flood events impacting their properties and development plans. The significant, and often undefined risk of flooding outside of FEMA floodplains is a nationwide issue.

Since that time, Stormwater staff have held public and community group meetings to discuss and receive feedback on non-FEMA flood risk regulations and worked closely with stakeholder groups, including the Real Estate Guidance Group and stakeholder groups associated with the American Council of Engineering Companies, Floodplain Management Plan, Stormwater Master Plan, and Stormwater Program. The stakeholders consisted of residents, engineers, lenders, appraisers, title lawyers, insurance agents, surveyors, developers, and builders and included the Real Estate Council of Greater Fort Worth, the Greater Fort Worth Association of Realtors, the Fort Worth Builders Association, the Development Advisory Committee (DAC), and the Tarrant Appraisal District.

The proposed ordinance will establish non-FEMA City Flood Risk Areas (CFRAs). CFRA regulations would regulate all residential and commercial development activity less than one (1) acre that is located in a CFRA. The development activity ranges from fences, accessory structures, room additions, and new construction, up to commercial or mixed-use site development projects on less than one acre. Such development activity would require:

- Elevation of structures two (2) feet above the 100-year flood elevation, and;
- Submission of a certificate from an engineer to document that the development will not cause increased flood risk to neighboring properties.

The City Flood Risk Area regulations shall take effect on July 15, 2024.

Grading Permit Ordinance:

Coordination and collaboration with development community representatives, started three (3) years ago on the proposed updates to the Grading Permit Ordinance to make the permitting process more efficient and effective. The most significant improvement is that this update will replace the Final integrated Storm Water Management (iSWM) Plan requirement with a grading permit, eliminating one step in the development review process. In addition, the updates will produce the following benefits:

- Clarify submission requirements and apply review requirements uniformly across development projects;
- Better define Early Grading Permits and clarify requirements for Early Grading Permits; and
- Clarify exemptions and simplify review processes for public infrastructure.

The amended Grading Permit Ordinance shall take effect on July 15, 2024.

Stormwater Criteria Manual:

In 2019, the Texas State Legislature passed House Bill 3167 which amended Chapter 212 of the Texas Local Government Code. The new law required, in part, for developer construction plans to be approved by the City Plan Commission, to place a “shot clock” on review and approval deadlines for developer construction plans, and for any review comments on construction plans to cite to specific laws, regulations, or design criteria when the construction plans were not approved by the City. During the 88th Texas Legislative Session, the state law was amended to remove these requirements.

While no longer mandatory, City staff and development representatives have maintained self-imposed review deadlines and clear regulations that can be cited to during construction plan reviews. To that end, City staff have prepared revisions to the Stormwater Criteria Manual to ensure that the City’s requirements are clear and can be easily cited to in construction plan review comments.

In addition, staff recommends changes to the Stormwater Criteria Manual based on new data and information, lessons learned from how current regulations are implemented, and to integrate the proposed revisions to the Floodplain Provisions Ordinance and the Grading Permit Ordinance. The revisions will provide clarity to the development community, and help to ensure development and public infrastructure design contribute to a safe and sustainable Fort Worth.

Throughout the process, staff engaged with external and internal stakeholders to coordinate and get feedback on document revisions. Draft documents were coordinated with the DAC for review and comment.

A summary of the updates to the Stormwater Criteria Manual include:

- CFRA guidance and regulations are incorporated;
- Final iSWM Plans are no longer required;
- Drainage studies are better defined and introduced as a separate submittal to replace iSWM plans;
- Use of specific types of polypropylene pipe in lieu of concrete pipe are allowed;
- Stormwater detention facility maintenance requirements are defined;
- Runoff coefficients for more dense residential developments are updated;
- Easement sizing requirements are revised; and
- Administrative procedures for processing applications and conducting pre-submittal meetings are revised.

The revised Stormwater Criteria Manual shall take effect on July 15, 2024.

In accordance with Section 212.0021 of the Texas Local Government Code, notice of the public hearing on the proposed ordinances was published in the *Fort Worth Star-Telegram* on May 24, 2024.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of these recommendations will not have no material effect on City funds.

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