

CITY OF WOODCREEK

ORDINANCE No. 10-139

**WATER QUALITY PROTECTION AMENDMENTS**

AN ORDINANCE AMENDING THE WATER QUALITY PROTECTION ORDINANCE, WHICH ESTABLISHES REGULATIONS FOR THE PROTECTION OF REGIONAL WATER RESOURCES, PREVENTION OF WATER POLLUTION AND ABATEMENT OF DEGRADATION; PROVIDING FOR THE FOLLOWING: ENACTMENT; FINDINGS OF FACT; REPEALER; SEVERABILITY PROPER NOTICE AND MEETING; RULES; STANDARDS; ENFORCEMENT INCLUDING INJUNCTIVE RELIEF AND CIVIL REMEDIES

**WHEREAS**, the City Council of the City of Woodcreek (“City Council”) seeks to promote responsible and orderly development inside the city limits and extraterritorial jurisdiction (ETJ), through reasonable regulations that protect and preserve the region water; and

**WHEREAS**, the City supports the *Regional Water Quality Protection Plan for the Barton Springs Segment of the Edwards Aquifer and its Contributing Zone (Regional Plan*, adopted June 2005); and

**WHEREAS**, the City Council supports the *Groundwater Management Plan* adopted by the Hays Trinity Groundwater Conservation District in August 2005, and relies on the plan in-part as a basis for the standards promulgated by this Ordinance; and

**WHEREAS**, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

**WHEREAS**, pursuant to Section 26.177 of the Texas Water Code, the City has specific authority to adopt an ordinance promoting water protection, preventing water pollution, and mandating abatement; and

**WHEREAS**, pursuant to Texas Local Government Code Chapter 217, the City has general authority to identify and abate nuisances; and

**WHEREAS**, on October 20, 2006, the City Council adopted a Water Quality Protection Ordinance, that being Number 06-103, and on January 10, 2007 the City Council adopted Amendments to the City’s Water Quality Protection Ordinance, that being Number 06-103A; and

**WHEREAS,** on November 25, 2009 the Hays-Trinity Groundwater District, whose jurisdiction includes the City of Woodcreek and its ETJ, informed the City that the entire Woodcreek City and ETJ acreage lies within Trinity Aquifer recharge zone and contains numerous Critical Environmental Features, including sinkholes and fractures; and

**WHEREAS,** the City Council finds that it is necessary and proper for the good government, peace or order of the City of Woodcreek to amend the Water Quality Protection Ordinance, as provided herein.

**NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Woodcreek:**

### **1. FINDINGS OF FACT**

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

### **2. AMENDMENT**

The City of Woodcreek's Water Quality Protection Ordinance, Number 06-103, as amended by Ordinance Number 06-103A, is hereby amended to read in with *Attachment A*, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

### **3. REPEALER**

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

### **4. SEVERABILITY**

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

### **5. PUBLICATION**

The City Administrator is hereby directed to record and publish the attached rules, regulations and policies in the City's files.

### **6. EFFECTIVE DATE**


This Ordinance shall be effective immediately upon passage and publication.

**7. PROPER NOTICE & MEETING**

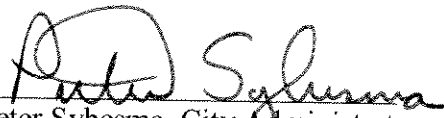
It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED & APPROVED** this, the 10th day of February 2010, by a vote of 4 (*ayes*) to 0 (*nays*), with 1 council member absent, of the City Council of Woodcreek, Texas.

**CITY OF WOODCREEK:**

by:   
Mayor Eric C. Eskelund

**ATTEST:**

  
Pieter Sybesma, City Administrator

**APPROVED AS TO FORM:**

Roger E. Gordon, Assistant City Attorney

## WATER QUALITY PROTECTION ORDINANCE

### SECTION 1. ENACTMENT PROVISIONS

**1.1. Popular Name**

This Ordinance shall be commonly cited as the "Water Quality Protection Ordinance."

**1.2. Introduction**

Section 26.177 of the Texas Water Code provides an opportunity for municipalities to regulate water protection, water pollution, and pollution abatement.

**1.3. Purpose**

This Ordinance provides standards and procedures for municipal determination of the non-point source pollution control management policies and shall govern the planning, design, construction, operation and maintenance of drainage, erosion, and water quality control facilities within the City's jurisdiction. This Ordinance sets forth the minimum requirements necessary to provide and maintain a safe, efficient and effective non-point source pollution control system and to establish the various public and private responsibilities for the provision thereof. Further, it is the purpose of this Ordinance to:

- (a) Protect human life, health and property; and
- (b) Prevent losses of endangered species and habitat of endangered species; and
- (c) Protect the integrity of local ecological systems; and
- (d) Minimize the expenditure of public money for building and maintaining non-point source pollution control projects and cleaning sediments out of storm drains, streets, sidewalks and watercourses; and
- (e) Help maintain a stable tax base and preserve land values; and
- (f) Preserve the natural beauty and aesthetics of the community; and
- (g) Control and manage the quality of stormwater runoff, the sediment load in that runoff, from points and surfaces within subdivisions; and
- (h) Establish a reasonable standard of design and performance for development which prevents erosion and sediment damage and which reduces the pollutant loading to streams, ponds and other watercourses; and
- (i) Prevent degradation and pollution of groundwater resources.

**1.4. Program Description**

The City's Water Quality Protection Program is comprehensive and practical. The regulations enacted to implement the Program are found throughout the City's development ordinances, which include (but are not limited to) the following rules, as they exist or as they shall be adopted and hereafter amended:

<b>Element of Program</b>	<b>Ordinance</b>
Rural Vision	Comprehensive Plan and /or Master Plan
Public Education	Water Quality Protection
Land Use	Zoning
Lot Size in City Limits	Zoning
Lot Size in ETJ	Water Quality Protection
Impervious Cover	Water Quality Protection
Drainage	Water Quality Protection Flood Damage Prevention Site Development TCSS
Vegetation	Landscaping
Open Space	Parkland Dedication Conservation Design
Water Supply	Subdivision
Water Pollution	Water Quality Protection
Wastewater	Subdivision
Preferred Growth Areas	Zoning
Buffered Zone	TCSS
Development Agreements	Development Agreement

**1.5. Scope**

**1.5.1.** This Ordinance applies to all property within the city limits and the ETJ.

**1.5.2.** This Ordinance shall not apply to public school facilities.

**1.5.3.** The City encourages Wimberley Independent School District (WISD) and any other public education institution to voluntarily comply with the spirit and general goals of this Ordinance.

**1.5.4.** This Ordinance does not apply to: (a) any subdivisions with less than 15% impervious cover; or (b) subdivisions of two (2) or fewer single-family residences.

**1.5.5.** A Developer/Owner may offer cash-in-lieu of meeting the requirements of this Ordinance if approved by the City Council. The amount will be equal to the estimated costs for construction of on-site water quality facilities for the proposed development. The City will, at the Council’s discretion, deposit such funds in a construction account for future regional water quality facilities.

**1.6. Technical Construction Standards & Specifications**

The *Technical Construction Standards and Specifications (TCSS) Manual* is to establish uniform design practices. It neither replaces the need for engineering judgment nor precludes the use of any information relevant to the accomplishment of the purposes of this Ordinance. Other generally accepted or innovative and effective engineering procedures may be used in conjunction with, or instead of, those

prescribed by the *TCSS Manual* if approved by the City Engineer. The *TCSS Manual* is maintained and available for inspection at City Hall.

## 1.7. Mandate

- 1.7.1. Any person proposing to develop or improve real property within the jurisdiction of the City is subject to the provisions of this Ordinance.
- 1.7.2. Requirements of this Ordinance shall be addressed in applications for Plats, Site Development Permits, Rezoning, Planned Unit Development Districts (PUDs), Conditional Use Permits, and Construction Permits.
- 1.7.3. The City also may require Development Agreements, Utility Agreements, and District Formation Agreement to address requirements of this Ordinance.
- 1.7.4. It shall be an offense for any person to develop or improve real property in violation of this Ordinance.

## SECTION 2. DEFINITIONS

### 2.1. General

Words and phrases used in this Ordinance shall have the meanings set forth in this section. Words and phrases not defined in the Code of Ordinance shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and *vice versa*); and words in the masculine gender shall include the feminine gender (and *vice versa*). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only. Unless otherwise expressly indicated, references to state and federal laws, final regulations and formal guidance shall refer to the then current enactment of such laws, final regulations and formal guidance, as they are amended from time to time.

### 2.2. Specific

***Affected Person:*** Any person who resides within the City's jurisdiction, whose legal rights, duties, or privileges may be affected by stormwater management practices, from any proposed development for which a permit is sought.

***Agricultural Activities:*** Pasturing of livestock or use of the land for planting, growing, cultivating, and harvesting crops for human or animal consumption.

***Agricultural Stormwater Runoff:*** Any stormwater runoff from orchards, cultivated crops, pastures, range land, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR § 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR § 122.24.

**Annual Pollutant Load:** The amount of pollution in stormwater runoff that is discharged from a developed site over the course of one (1) year; usually measured in pounds and based on an average year of rainfall. The annual pollutant load is calculated by multiplying the pollutant concentration by the volume of runoff.

**Applicant:** A person who submits an application for approval required by this Ordinance. The applicant shall be the owner of the property subject to this Ordinance, acting in person or by and through the owner's authorized representative. Documentation, in a form acceptable to the City, evidencing ownership of the property or the authority of the authorized agent must be submitted along with the application. For example, written power of attorney or letter of agency will be sufficient to prove agency. A deed or tax letter will be adequate to establish ownership of the property.

**Application:** A written request for an approval required by this Ordinance.

**Background Pollutant Load:** The amount of pollution in stormwater runoff that is discharged from a site before development. The background pollutant load is calculated by multiplying the drainage area of the site by the annual runoff coefficient by the background stormwater pollution concentrations.

**Best Management Practice (BMP):** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the non-point source pollution of waters in the State. The two basic types of BMPs for purposes of this Ordinance are "structural BMPs" (which include engineered and constructed systems that are designed to provide for water quantity and/or water quality control of storm water runoff) and "non-structural BMPs" (which include institutional and pollution-prevention type practices designed to prevent pollutants from entering storm water runoff or to reduce the volume of storm water requiring management). This term expressly includes both structural and non-structural BMPs.

**Bluff:** Geologic surface feature with a vertical change in elevation of more than forty feet (40') at an average gradient greater than four hundred percent (400%).

**Bond:** Any form of a surety bond in an amount and form satisfactory to the City.

**Builder:** A person engaged in clearing, grubbing, filling, excavating, grading, constructing a pad, installing utility service lines and/or constructing or placing a building(s) or other structure(s) on a lot or other type of tract of land that is owned by the person and that will not be further subdivided into other lots.

**Building Official:** The inspector or administrative official charged with responsibility for issuing building permits and enforcing the building code requirements of the City.

**City:** The City of Woodcreek, an incorporated municipality located in Hays County, Texas.

**City Attorney:** The individual or law firm appointed by the City Council to render legal services and advice in relation to the administration, interpretation, and enforcement of this Ordinance.

**City Limits:** The incorporated municipal boundaries of the City of Woodcreek.

**Commercial Development:** All development other than open space, single-family, or multi-family residential development.

**Construction Limit Line:** The line marking the boundary of disturbance from construction.

**Contractor:** Any person, other than the owner, engaging in land development activities on land located within City's jurisdiction.

**Critical Environmental Features (CEFs):** Features determined to be of critical importance to the maintenance of water quality, including floodplains; riparian corridors; groundwater recharge areas; springs; canyon rimrocks; caves; sinkholes; faults and fractures with solution enlarged openings; and highly erodible natural features.

**Developer:** A person who owns a tract of land and who is engaged in clearing, grubbing, filling, mining, excavating, grading, installing streets and utilities or otherwise preparing that tract of land for the eventual division into one or more lots on which building(s) or other structure(s) will be constructed or placed.

**Development:** All land modification activity, including the construction of buildings, roads, paved storage areas, and parking lots. "Development" also includes any land disturbing construction activities or human-made change of the land surface, including clearing of vegetative cover, excavating, filling and grading, mining, and dredging, and the deposit of refuse, waste or fill. The following activities are excluded from the definition: care and maintenance of lawns, gardens, and trees; minimal clearing (maximum ten feet (10') wide) for surveying and testing; and agricultural activities.

**Discharge:** Any addition or introduction of any pollutant, stormwater, or any other substance in a harmful quantity to a stormwater drainage system or to waters in the State.

**Discharge (hydraulics):** The rate of fluid flow, expressed as the volume of fluid passing a point per unit time, commonly expressed as cubic feet per second.

**Discharger:** Any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any owner or operator of a construction site or industrial facility.

**Domestic Sewage:** Human excrement, gray water from home clothes washing, bathing, showers, dishwashing, and food preparation, other wastewater from household and residential drains, and waterborne waste normally discharged from the sanitary conveniences of apartment houses, hotels, office buildings, factories, institutions and other dwellings, but excluding industrial waste.

**Drainage Area:** The horizontal projection of the area contributing runoff to a single control or design point.

**EPA:** the federal Environmental Protection Agency, or a successor agency.

**ETJ:** The extraterritorial jurisdiction of the City of Woodcreek.

**Erosion:** The detachment and movement of soil, sediment, or rock fragments by wind, water, ice or gravity.

**Extremely Hazardous Substance:** Any substance listed in the Appendices to 40 CFR § 355, Emergency Planning and Notification.

**Facility:** Any building, structure, installation, process, land or activity from which there is or may be Discharge of a Pollutant.

**Fertilizer:** A solid or non-solid substance or compound that contains an essential plant nutrient element in a form available to plants that is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of one or more fertilizers. The term does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no claim of essential plant nutrients is made.

**Fill:** The manmade deposition and compaction of material to affect a rise in elevation.

**Final Stabilization:** The status of a site when all soil disturbing activities have been completed and (a) A uniform perennial vegetative cover with a minimum density of seventy percent (70%) of the cover for unpaved areas and areas not covered by permanent structures has been established, or (b) Equivalent permanent stabilization measures have been employed, such as the use of riprap, gabions, or geotextiles.

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas resulting from (a) The overflow of inland or tidal waters, or (b) The unusual and rapid accumulation or runoff of surface waters from any source.

**Floodplain:** For the purposes of Water Quality Buffer Zones, this term shall mean either of one or the other following definitions: (a) A FEMA studied floodplain identified on the FIRM (Flood Insurance Rate Maps) as Zone AE or equivalent; or (b) A studied floodplain as provided through engineering data prepared and certified by a Professional Engineer.

**Grade:** The vertical location or elevation of a surface, or the degree of rise or descent of a slope.

**Harmful Quantity:** The amount of any substance that will cause Pollution of water in the State.

**Hazardous Household Waste (HHW):** Any material generated in a household (including single and multiple residences, hotels, motels, bunk houses, ranger stations, crew quarters, camp grounds, picnic grounds, and day use recreational areas) by a consumer which, except for the exclusion provided in 40 CFR § 261.4(b)(1), would be classified as a hazardous waste under 40 CFR § 261.

**Hazardous Substance:** Any substance listed in Table 302.4 of 40 CFR § 302.

**Hazardous Waste:** Any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR § 261.

**Herbicide:** A substance or mixture of substances used to destroy a plant or to inhibit plant growth.

**Impervious Cover:** All roads, driveways, parking areas, buildings, decking, rooftop landscapes and other impermeable construction covering the natural land surface that prevents infiltration. Swimming pool surface water area for pools which discharge to the storm drainage system shall also be included. Water quality and detention basins, swales, and other conveyances for drainage purposes only shall not be calculated as impervious cover. For purposes of compliance with this Ordinance, the term expressly excludes storage tanks for rainwater collection systems.

**Industrial Waste:** Any liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade, or business.

**Infiltration:** The passage or movement of water into the subsurface of the natural land.

**Land User:** Any person operating, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.

**Multi-family Dwelling:** Three or more dwelling units on a single lot designed to be occupied by three (3) or more families living independently of one another, exclusive of hotels and motels. Includes three-family units (triplex) and four-family units (quadriplex), as well as traditional apartments.

**Natural State:** The condition of the land existing prior to any development activities.

***Non-Point Source (NPS) Pollution:*** Pollution that is caused by or attributable to diffuse sources. Such pollution results in the human-made or human-induced alteration of the chemical, physical, biological, or radiological integrity of water. Typically, NPS pollution results from land runoff, precipitation, atmospheric disposition, or percolation.

***Non-Point Source Pollution Control Plan:*** The drawings and documents submitted by an applicant seeking plan or permit approval under this Ordinance. Such a plan consists of a system of vegetative, structural and other measures to control the increased rate and volume of surface runoff and reduce pollutants in the runoff caused by human changes to the land.

***Notice of Termination (NOT):*** The Notice of Termination that is required by either the site development permit or the building permit.

***Oil:*** Any kind of petroleum substance including but not limited to petroleum, fuel oil, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste.

***Operator:*** The person or persons who, either individually or taken together, have day-to-day authority for operational control over a facility and activities at the facility sufficient to attain compliance with the requirements of this Ordinance.

***Owner:*** The person who owns a facility or part of a facility subject to the requirements of this Ordinance.

***Person:*** Any individual, association, firm, corporation, governmental agency, political subdivision, or legal entity of any kind.

***Pesticide:*** A substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, as these terms are defined in Texas Agriculture Code § 76.001.

***Petroleum Storage Tank (PST):*** Any one or combination of aboveground or underground storage tanks that contain oil, petroleum products or petroleum substances, and any connecting underground pipes.

***Point Source:*** Any discernable, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

**Pollutant:** Eroded or displaced sediment, soil, silt or sand resulting from development activities; dredged spoil; solid waste; sewage; garbage; chemical waste; biological materials; radioactive materials; abandoned or discarded appliances or equipment; and industrial, municipal, and agricultural waste which is or may be discharged into waters in the State. This term shall be limited to those substances listed herein, or monitored or regulated by the TCEQ or EPA.

**Pollution:** The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any 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.

**Professional Engineer (PE):** A person who has been duly licensed and registered by the State Board of Registration for Professional Engineers to engage in the practice of engineering in the State of Texas.

**Recharge Zone:** That area where the stratigraphic units constituting the Edwards or Trinity Aquifer outcrops, including the outcrops of other geologic formations in proximity to the Edwards or Trinity Aquifer where caves, sinkholes, faults, fractures or other permeable features create a potential for recharge of surface waters into the Edwards or Trinity Aquifer. The entire city limits and extra-territorial jurisdiction of the City of Woodcreek lies within the Trinity Aquifer Recharge Zone.

**Release:** Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into a storm water drainage system or into waters in the State.

**Residence:** Any building, or portion thereof, which is designed for or used as living quarters for one or more families.

**Riparian Corridor:** The ecological areas within and adjacent to a floodplain that are or can be comprised of the following plant species: Pecan, American Elm, Arizona Walnut, Bald Cypress, Black Walnut, Bur Oak, Cedar Elm, Little Walnut, Green Ash, Texas Sugarberry, American Sycamore, Eastern Cottonwood, Black Willow, and Live Oak.

**Rubbish:** Nonputrescible solid waste, excluding ashes, that consist of (a) Combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (b) Noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

**Runoff:** That portion of precipitation or precipitation drainage that flows by force of gravity across ground surface as sheet flow or in a stormwater drainage system towards water in the State.

***Sensitive Features:*** A large variety of types including caves, solution cavities, solution enlarged fractures, sinkholes or other karst surface expression that meet the definition for sensitive in the “Instructions to Geologists for Geological Assessments” (Form TCEQ-0585).

***Sewer or Sanitary Sewer:*** The system of pipes, conduits, and other conveyances designed or used for collecting or conveying domestic sewage and/or industrial waste from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to a sewage treatment plant and which are intended to exclude stormwater, surface water, and groundwater.

***Septic Tank Waste:*** Any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

***Sewage (or Sanitary Sewage):*** The domestic sewage and/or industrial waste that is discharged into a sanitary sewer system and passes through the sanitary sewer system to a sewage treatment plant for treatment.

***Single-Family Residence:*** A dwelling designed and constructed for occupancy by one single family and which is located on a separate lot delineated by side and rear lot lines, including single-family detached and single-family attached (townhouses) dwellings.

***Solid Waste:*** Any garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including, solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities.

***Spring:*** A point or zone of natural groundwater discharge having measurable flow, or a pool, and characterized by the presence of a mesic plant community adapted to the moist conditions of the site.

***Start of Construction:*** The first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

***Steep Slope:*** Defined as a four hundred percent (400%) grade, as defined for the purposes of setbacks.

***Stormwater Drainage System:*** A conveyance or system of conveyances including roads with drainage systems, catch basins, curbs, gutters, ditches, man-made channels, or storm drains designed or used for collecting or conveying storm water.

***Stormwater Pollution Prevention Plan (SWPPP):*** A plan required by either the TPDES Construction Site General Permit or the TPDES Industrial General Permit that describes and ensures the implementation of practices that are to be used to reduce the pollutants in stormwater discharges associated with construction or other industrial activity.

***Streams:*** Perennial and intermittent watercourses identified through site inspection and USGS maps. Perennial streams are those which are depicted on a USGS map with a solid blue line. Intermittent streams are those which are depicted on a USGS map with a dotted blue line.

***Subdivision:*** A division, or re-division, of any tract of land situated within the City's jurisdiction into two or more parts, lots or sites, for the purpose, whether immediate or in the future, of sale, division of ownership or building development. "Subdivision" includes re-subdivisions of land or lots which are part of previously recorded subdivisions.

***TCEQ:*** The Texas Commission on Environmental Quality or its predecessor or successor agencies as defined by law.

***TCSS Manual:*** The City of Woodcreek Technical Construction Standards & Specifications Manual, as is may be adopted and maintained and available for inspection at City Hall.

***TPDES:*** Texas Pollutant Discharge Elimination System, as authorized by Ordinance 26 of the Texas Water Code and administered by the TCEQ.

***TPDES General Permit for Industrial Stormwater Discharges:*** The TPDES Industrial Storm Water Multi-Sector General Permit TXR050000 issued by TCEQ and published in the Texas Register, as it may be amended or renewed from time to time.

***TPDES General Permit for Construction Site Stormwater Discharges:*** The TPDES General Permit issued by TCEQ TXR150000 relating to discharges from construction activities and published in the Texas Register, as it may be amended or renewed from time to time.

***TPDES Permit:*** A permit issued by TCEQ pursuant to authority granted under 33 USC § 1342(b) that authorizes the Discharge of Pollutants, whether the permit is issued to a person, or as a general permit for a category of dischargers in a particular geographic area.

***Technical Construction Standards & Specifications (TCSS) Manual:*** The ordinance bearing that name as adopted by the City Council, as it exists or is hereafter enacted and amended.

***Transferable Development Right (TDR):*** Authorization to exceed the uniform intensity levels otherwise imposed under this Ordinance on a less environmentally-sensitive tract of land resulting from voluntary relinquishment of development rights otherwise allowed under this Ordinance on a more environmentally-sensitive tract of land (e.g., through dedicated conservation easement). A TDR can also result from voluntary retrofitting of existing development with water quality protection measures not otherwise required by this Ordinance.

***Variance:*** A grant of relief to a person from the requirements of this Ordinance when specific enforcement would result in unjustifiable or unnecessary hardship due to out-of-the-ordinary or extenuating circumstances.

***Water in the State (or Water):*** Any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, or canals inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are inside the jurisdiction of the State.

***Watershed:*** The total area contributing runoff to a stream or drainage system.

***Wetland:*** An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions and conforms to the U.S. Army Corps of Engineers' definition. Wetlands generally include swamps, marshes, bogs, and similar areas.

***Yard Waste:*** Leaves, grass clippings, yard and garden debris, and brush that results from landscaping maintenance and land-clearing operations.

## SECTION 3. PROHIBITIONS

### 3.1. General Prohibitions

- 3.1.1. Except as otherwise specifically authorized by this Ordinance, no person shall discharge, or cause, suffer or allow the discharge, of any wastes, substances or other materials into or adjacent to, or where it may enter, any water in the State which causes or will cause pollution of any water in the State.
- 3.1.2. Except as otherwise specifically authorized by this Ordinance, no person shall introduce or cause to be introduced into a stormwater drainage system any pollutants or other discharge that is not composed entirely of stormwater, except where otherwise exempt or allowed through permit by the TCEQ.

### **3.2. Specific Prohibitions**

**3.2.1.** No person shall introduce or cause to be introduced into a stormwater drainage system any discharge that causes or contributes to causing a violation of a water quality standard established by law.

**3.2.2.** No person shall introduce, discharge, or cause, suffer or allow a release of any harmful quantity of the following substances into a stormwater drainage system:

- (a)** Used motor oil, antifreeze, or any other motor vehicle fluid;
- (b)** Industrial waste;
- (c)** Hazardous waste, including hazardous household waste;
- (d)** Domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
- (e)** Garbage, rubbish, or yard waste beyond that which typically washes off a yard during a rain event;
- (f)** Wastewater from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance operation at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus, or heavy equipment, by a business or public entity that operates more than two such vehicles;
- (g)** Wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
- (h)** Wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
- (i)** Wastewater from commercial floor, rug, or carpet cleaning;
- (j)** Wastewater from the washdown or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance as defined by EPA or TCEQ; or 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 such released material have been previously removed;
- (k)** Effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;
- (l)** Ready-mixed concrete, mortar, ceramic, or asphalt base material or hydromulch material, or from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;
- (m)** Runoff or washdown water from any animal pen, kennel, or fowl or livestock containment area;
- (n)** Filter backwash from a swimming pool, or fountain, or spa;
- (o)** Swimming pool water containing any harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;

- (p) Discharge from water line disinfection by superchlorination or other means if it contains any harmful quantity of chlorine or any other chemical used in line disinfection;
- (q) Fire protection water containing oil or hazardous substances or materials (except for discharges or flows from fire fighting activities by a locally accredited Fire Department);
- (r) Water from a water curtain in a spray room used for painting vehicles or equipment;
- (s) Contaminated runoff from a vehicle wrecking yard;
- (t) Substance or material that will damage, block, or clog the stormwater drainage system;
- (u) Release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge satisfies all of the following criteria:
  - (1) The discharge complies with all state and federal standards and requirements;
  - (2) Discharge does not contain a harmful quantity of any pollutant; the
  - (3) And the discharge does not contain more than 50 parts per billion of benzene; 500 parts per billion combined total quantities of benzene, toluene, ethylbenzene, and xylene (BTEX); or 15 mg/l of total petroleum hydrocarbons (TPH).

- 3.2.3. No person shall introduce or cause to be introduced into a stormwater drainage system any harmful quantity of sediment, silt, dirt, soil, sand or other material associated with clearing, grading, excavation or other construction activities, or associated with landfilling or other placement or disposal of soil, rock, sand or other earth materials, in excess of what could be retained on site or captured by employing sediment and erosion control measures to the minimum extent required by this Ordinance.
- 3.2.4. No person shall connect a line conveying sanitary sewage, whether domestic or industrial, to a stormwater drainage system, nor allow such a connection to continue if discovered.
- 3.2.5. No person shall cause or allow any pavement washwater from a service station to be discharged into a stormwater drainage system unless such washwater has first passed through a grease, oil, and sand interceptor which is properly functioning and maintained.
- 3.2.6. No person shall cause or allow to be caused a discharge with less than 90% of the pollutant load removed, to be discharged into any stream, creek, stormwater drainage system, or tributary.

## SECTION 4. RESTRICTED ACTIVITIES

### 4.1. Pesticides, Herbicides & Fertilizers

- 4.1.1. Any license, permit, registration, certification, or evidence of financial responsibility required by state or federal law for sale, distribution, application, manufacture, transportation, storage, or disposal of a pesticide, herbicide or fertilizer must be presented to an authorized City enforcement officer for examination upon request.
- 4.1.2. No person shall 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.
- 4.1.3. No person shall 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 the pesticide, herbicide, or fertilizer to enter a stormwater drainage system or waters of the United States.
- 4.1.4. No person shall 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 a stormwater drainage system or waters in the State.

### 4.2. Used Oil

- 4.2.1. No person shall:
  - (a) Discharge used oil into a stormwater drainage system or a sewer, drainage system, septic tank, surface water, groundwater, or water course;
  - (b) Knowingly mix or commingle used oil with solid waste that is to be disposed of in a landfill or knowingly directly dispose of used oil on land or in a landfill;
  - (c) Apply used oil to a road or land for dust suppression, weed abatement, other similar use that introduces used oil into the environment.
- 4.2.2. All businesses engaged in the changing of motor oil for the public, all municipal waste landfills, and all fire stations may serve as public used oil collection centers as provided by state law.
- 4.2.3. A retail establishment which sells motor oil in containers directly to the public for use off-premises shall post in a prominent place a sign informing the public that improper disposal of used oil is prohibited by law. The sign shall prominently display the toll-free telephone number of the state used oil information center.

## SECTION 5. PERFORMANCE STANDARDS

- 5.1.** Except as otherwise provided in this Ordinance, all development subject to this Ordinance shall achieve the following performance standards:
- 5.1.1.** It is the objective of these regulations that there be no net increase of Annual Pollutant Load.
  - 5.1.2.** Stormwater facilities associated with new development must be designed, constructed, operated and maintained to ensure removal of ninety percent (90%) of the Annual Pollutant Load from discharges attributable to the site.
  - 5.1.3.** Background Pollutant Loads for developed sites:
    - (a) Background pollutant concentrations shall be as defined in the *TCSS Manual*.
    - (b) Standard pollutant concentrations for developed sites shall be as defined in the *TCSS Manual*.
    - (c) Calculations of annual pollutant loading shall comply with the criteria set forth in the *TCSS Manual*.
- 5.2.** Water Quality Design Threshold: The design storm event shall be the two (2) year, three (3) hour storm. The pollutant loadings for this storm event shall be calculated in accordance with the *TCSS Manual*.

## SECTION 6. IMPERVIOUS COVER

- 6.1. Maximum Limitations**  
A 25% maximum limitation on impervious cover is hereby established for developments for which a site development plan is first filed after the effective date of this Chapter:
- 6.2.** Although maximum impervious cover for property located in specific districts in the City Limits may also be governed by the City's Zoning Ordinance, to the extent the provisions of the Zoning Ordinance conflict with this Ordinance, this Ordinance shall govern.
- 6.3.** Impervious cover shall include all man-made improvements which prevent the infiltration of water into the natural soil, or prevent the migration of the infiltration as base flow.
- The following shall be considered as impervious cover:
- (a) Roads, pavements, and driveways;
  - (b) Parking areas;
  - (c) Buildings;
  - (d) Pedestrian walkways and sidewalks;
  - (e) Concrete, asphalt, masonry, surfaces areas, and paving stone surfaced areas;
  - (f) Swimming pool water surface area;

- (g) Densely compacted natural soils or fills which result in a coefficient of permeability less than  $1 \times 10^{-6}$  cm/sec;
- (h) All existing man-made impervious surfaces prior to development;
- (i) Water quality and stormwater detention basins lined with impermeable materials;
- (j) Stormwater drainage conveyance structures lined with impermeable materials;
- (k) Interlocking or "permeable pavers"; and
- (l) Fifty percent (50%) of the horizontal surface area of an uncovered deck that has drainage spaces between the deck boards that is located over a pervious surface.

#### **6.4. Exceptions to Impervious Cover Calculations**

- (a) Existing roads adjacent to the development and not constructed as part of the development at an earlier phase;
- (b) Naturally occurring impervious features, such as rock out crops;
- (c) Landscaped areas and areas remaining in their natural state;
- (d) Water quality controls and stormwater detention basins not lined with impermeable materials;
- (e) Stormwater drainage conveyance structures not lined with impermeable materials.

#### **6.5. Siting Restrictions**

Impervious cover shall not be constructed:

- (a) Downstream of water quality controls;
- (b) Within Critical Environmental Feature setback areas;
- (c) Within the areas designated for on-site irrigation for treated wastewater effluent disposal.

### **SECTION 7. VARIANCES**

#### **7.1. Presumption**

There shall be a presumption against variances. However, if the applicant requests a variance in writing, the Board of Adjustment may authorize a waiver from these regulations in accordance with this Ordinance.

#### **7.2. Identification**

All variances requested for a project must be identified during the site plan approval process.

#### **7.3. Conditions**

In granting a variance, the Board of Adjustment shall prescribe upon the applicant only conditions that it deems necessary to or desirable in the public interest.

#### **7.4. Considerations**

In making the findings required below, the Board of Adjustment shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed

development, and the probable effect of such waiver the public health, safety, convenience and welfare in the vicinity.

**7.5. Findings**

No variance shall be granted unless the Board of Adjustment finds that all of the following provisions are met, and the burden shall be on the developer to show that these provisions are satisfied:

- (a) That there are special circumstances or conditions affecting the land involved, such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of this land;
- (b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
- (c) That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area; and
- (d) That the granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this Ordinance.

**7.6.** Pecuniary hardship to the applicant, property owner or Developer, standing alone, shall not be deemed sufficient to constitute undue hardship.

**7.7.** When the Board of Adjustment determines that a variance is warranted, the variance permitted shall be the minimum departure from the terms of this Ordinance necessary to avoid such deprivation of privileges enjoyed by such other property to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences.

**7.8.** It shall be an adequate basis for granting a variance that doing so will enable the applicant to create additional open space, preserve trees, maintain critical environmental features, ensure more wildlife preservation, or bring nonconforming structures (including but not limited to signs) into compliance with current regulations. This section is designed to achieve a more favorable outcome for the general public than would be possible complying with the strict mandates of this Ordinance.

**7.9.** It shall be an adequate basis for granting a variance that the applicant provides the City with a proposal pursuant to which the applicant presents a site exceeding the standard impervious cover rates with a mitigation plan that compensates for the additional impervious cover. Examples of potential mitigation include, but are not limited to, the applicant's:

- (a) Acquisition of transferable development rights (TDRs) to offset the additional impervious cover; and/or
- (b) Installation of a rainwater collection system.

## SECTION 8. WATER QUALITY BUFFER ZONES

**8.1.** This Section is applied at the time of the *plating* (creation of newly-subdivided lots). This Section does not apply to legally platted lots that existed as of the Effective Date of this Ordinance.

**8.2.** A water quality buffer zone is established along each waterway with the specified contributing (watershed drainage) area as follows:

**8.2.1. Greater than 50 acres and up to 160 acres:**

The WQBZ shall extend a minimum of 50 feet from either side of the centerline of the waterway (total of 100 feet of buffer zone).

**8.2.2. Greater than 160 acres and up to 320 acres:**

The WQBZ shall extend a minimum of 100 feet from either side of the centerline of the waterway (total of 200 feet of buffer zone).

**8.2.3. Greater than 320 acres and up to 640 acres:**

The WQBZ shall extend a minimum of 200 feet from either side of the centerline of the waterway (total of 400 feet of buffer zone).

**8.2.4. Greater than 640 acres and up to 1280 acre:**

The WQBZ shall extend a minimum of 300 feet from either side of the centerline of the waterway (total of 600 feet of buffer zone).

**8.2.5. Greater than 1280 acres:**

The WQBZ shall extend a minimum of 400 feet from either side of the centerline of the waterway (total of 800 feet of buffer zone).

**Note:** At the sole discretion of the City, and based on special circumstances, minimum distances from the waterway centerline may be adjusted so long as the total WQBZ width remains constant (e.g., for a waterway with a watershed of greater than 1280 acres, the minimum width on one side of the waterway centerline could be 200 feet as long as the width on the other side of the waterway was at least 600 feet).

**8.3.** The minimum WQBZ zone set forth above shall be expanded as follows:

**8.3.1.** In those cases where a FEMA 100-year floodplain has been established or a 100- year floodplain has been calculated and approved by a governmental authority, the buffer zone shall be expanded to encompass such 100-year floodplain plus additional twenty-five feet (25') feet beyond the edge of the floodplain.

**8.3.2.** In those cases where U.S. jurisdictional wetlands exist beyond the edge of the minimum buffer zone set forth above, the buffer zone shall be expanded to encompass the full extent of the wetlands plus an additional twenty-five feet (25') beyond the edge of the wetland.

- 8.3.3.** If two or more WQBZs overlap, the widest of the buffer zones shall be established.
- 8.4.** Except as specifically provided for in this Section, all development activities, including temporary construction activities, structural BMPs and landscaping activities, are prohibited in the Water Quality Buffer Zone of a waterway.
- 8.5.** The following development activities within a WQBZ may be allowed at the sole discretion of the City with the corresponding conditions:
- (a)** Critical utility crossings if the number of crossings of the WQBZ is limited to the maximum feasible extent;
  - (b)** Critical roadway crossings if the number of crossings of the WQBZ is limited to the maximum feasible extent;
  - (c)** Critical transportation crossings if the number of crossings of the WQBZ is limited to the maximum feasible extent;
  - (d)** Hike and bike trails if provided for in an approved development plan;
  - (e)** Maintenance and restoration of natural vegetation;
  - (f)** Water quality control monitoring devices;
  - (g)** Removal of trash, debris, pollutants;
  - (h)** Fences that do not obstruct flood flows;
  - (i)** Public and private parks and open space, if human activities are limited to hiking, jogging, or walking trails, and excluding stables, corrals and other forms of animal housing; and/or
  - (j)** Private drives to allow access to property not otherwise accessible.
- 8.6.** Any development within a WQBZ allowed under Subsection 8.5 above shall be designed and/or conducted in a manner which limits the alteration and pollution of the natural riparian corridor to the maximum extent feasible. In no case shall any wastewater line be located less than one hundred (100) feet from the center line of a waterway unless the applicant has demonstrated that installation of the wastewater line outside of this zone is physically prohibitive or environmentally unsound. Any wastewater lines located in a WQBZ shall meet design standards and construction specifications to ensure zero leakage.
- 8.7.** All water quality control discharges and stormwater discharges into a WQBZ shall only be in the form of diffused, overland sheet flow and shall have peak velocities of less than five (5) feet per second at the 2-year, 3-hour design rainfall event, unless demonstration is provided that this is not achievable with the proposed BMPs for managing stormwater runoff and quality, or that other means of diffusing the velocity of the runoff is provided that will protect the affected stream's morphology.

## **SECTION 9. ENVIRONMENTAL FEATURES**

- 9.1.** Sensitive features must be identified before the tract is subdivided and proposed locations for roads defined so they may be avoided.

- 9.2. A geological assessment must be conducted for all proposed developments.
- 9.3. Sealing of sensitive features will only be permitted when they are numerous, extensive, and impossible to avoid. Sealing of sensitive surface features will require approval from the City Administrator.
- 9.4. The natural buffer around a feature must extend a minimum of 150 feet in all directions. Where the boundary of the drainage area to the feature lies more than 150 feet from the feature, the buffer must extend to the boundary of the drainage area, or 300 feet, whichever is less.
- 9.5. For a Critical Environmental Feature (CEF) that is in direct communication with the Edwards or Trinity Aquifer, the upstream setback area shall extend out to the upper catchment divide of the CEF or three-hundred (300) feet, whichever is less, but in no circumstances no less than one-hundred fifty (150) feet.

#### **SECTION 10. EROSION FLOW CONTROL**

- 10.1. No untreated stormwater runoff from developed land shall be allowed to flow over critical environmental features.
- 10.2. All roof runoff from non-residential buildings shall have down spouts disconnected from the site stormwater drainage system. Special circumstances may be reviewed and approved by the City without a waiver to this requirement.
- 10.3. To the maximum extent practical, all stormwater drainage shall be treated using overland flow methods to a grass-lined swale or other vegetated buffer. The vegetated buffer shall be designed in accordance with the *TCSS Manual*. Special circumstances may be reviewed and approved by the City without a waiver to this requirement.
- 10.4. Drainage patterns shall be designed to the maximum extent practical to prevent erosion, maintain the recharge of local seeps and springs, and attenuate the harm of contaminants collected and transported by stormwater. All discharge points from stormwater retention and detention ponds or other accumulation areas shall provide for energy dissipation prior to exiting the site.
- 10.5. Overland sheet flow and natural drainage features and patterns shall be maintained to the maximum extent practical, rather than concentrating flows in storm sewers and drainage ditches. Stormwater drainage structures shall be sized to maintain flood flow velocities below the velocity associated with the 25-year, 3-hour rainfall event.
- 10.6. For site designs that provide for discharge of stormwater into a waterway, adequate retention and detention shall be incorporated into the site design to limit flows into the receiving waterway to the level consistent with the volume of the two-year, three-hour rainfall event evenly distributed over a 24-hour period.

- 10.7. Enclosed storm sewers and impervious channel linings may be considered and approved by the City if such storm sewers or impervious linings are considered to be protective of water quality.
- 10.8. Overland flow facilities for a stormwater drainage system shall be designed in accordance with the criteria of the *TCSS Manual*.

### **SECTION 11. INFILTRATION**

- 11.1. To the maximum extent practical, water quality controls shall be designed to restore the infiltration capacity of pre-development conditions. Infiltration BMP's shall be designed in accordance with the *TCSS Manual*.
- 11.2. Infiltration systems shall be designed and located to avoid impacts to existing springs and recharge structures.

### **SECTION 12. STEEP SLOPES**

- 12.1. To the maximum extent practical, non-residential construction shall be limited to those areas with pre-development natural grades of less than twenty-five percent (25%).
- 12.2. Erosion control, terracing and water quality control BMP's shall be designed in accordance with the *TCSS Manual*.
- 12.3. A cut or fill with a finished gradient steeper than thirty-three percent (33%) shall be stabilized with a permanent structure.

### **SECTION 13. VEGETATION**

- 13.1. To the maximum extent practical:
  - (a) Landscape shall be preserved in its natural state;
  - (b) Xeriscape and low maintenance vegetation shall be included in all non-residential development in accordance with the specifications in the *TCSS Manual*;
  - (c) The use of herbicides, pesticides and fertilizers shall be minimized.
- 13.2. A *Pesticide and Fertilizer Management Plan* shall be submitted providing information regarding proper use, storage, and disposal of pesticides and fertilizers. The plan shall indicate likely pesticides and fertilizers to be used. The plan shall include two lists of pesticides and fertilizers:
  - (a) Those which, due to their chemical characteristics, potentially contribute significantly to water quality degradation;
  - (b) Those which, due to the chemical characteristics, potentially would result in minimal water quality degradation.

- 13.3. An Integrated Pest Management (IPM) Plan shall be submitted in accordance with the *TCSS Manual*.
- 13.4. Vegetative BMP's, such as vegetative filter strips, shall be designed in accordance with the *TCSS Manual*.

#### **SECTION 14. STRUCTURAL CONTROLS**

Structural water quality controls are required for all new impervious cover development, as necessary to satisfy the mandates and limitations of this Ordinance.

#### **SECTION 15. HAZARDOUS MATERIAL TRAPS**

- 15.1. Hazardous Material Traps (HMT's) must be constructed for 4-lane minor or major arterials that are designed for traffic greater than 5,000 vehicles per day.
- 15.2. HMT's are designed to retain a spill of 10,000 gallons of liquid hazardous material.

#### **SECTION 16. ENFORCEMENT**

**16.1. Civil Enforcement**

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief. Any violation of this Ordinance is hereby declared to be a nuisance.

**16.2. Civil Remedies**

Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to the following:

- (a) Injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and
- (b) Other available relief.

**16.3. Administrative**

City may deny, withhold or postpone issuance of permits if applicant is found to have violated or failed to comply with this Ordinance. The City may also negotiate with violators for the payment by violators of administrative fines in lieu of formal enforcement in court.

**16.4. Administrative Action**

**16.4.1. Stop Work Orders:**

When an appropriate authorized official of the City determines that there has been non-compliance with any material term, condition, requirement or agreement under this Ordinance, the person obtaining such approved plan shall be ordered by the City in writing to cease and desist from further development or construction material to the alleged non-compliance until corrected by compliance.

**16.4.2. Withholding of Other Authorizations:**

The City may refuse to grant development, construction, or occupancy approvals for improvements for a property that does not fully and completely comply with all terms and conditions of this Ordinance. Without limiting the type or number of approvals the City may withhold, the City is specifically authorized to refuse to grant site development permits, sign permits, building permits, utility connections, and certificates of occupancy.