# STORMWATER RUNOFF MANAGEMENT MODEL ORDINANCE

This document is for guidance purposes only and is not a substitute for any existing requirements. Additionally, the information contained in this guidance is not a substitute for professional advice you would receive from an attorney and does not constitute legal advice or a legal opinion.

A stormwater runoff ordinance can improve coastal water quality, manage floodplains, and promote resilient development and infrastructure and enhance water supplies that maximize tourism, recreation, and economic prosperity in the Texas coastal region.

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## SECTION 1. GENERAL PROVISIONS

### 1.1. FINDINGS OF FACT

It is hereby determined that:

Land development projects and associated increases in impervious cover can alter the hydrologic response of local watersheds and can increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition;

This stormwater runoff can contribute increased quantities of water-borne pollutants, and;

Stormwater runoff, soil erosion and nonpoint source pollution can be managed through the application of sound stormwater management practices that minimize the impact of development on water quality and flooding; and

Increased stormwater runoff rates and volumes, flooding, stream channel erosion, soil erosion, and nonpoint source pollutants can pose as a threat to the public health.

Therefore, the **(jurisdictional stormwater authority)** establishes this set of stormwater runoff regulations for the purpose of protecting local water resources, managing floods, and enhancing public health and safety.

### 1.2. PURPOSE

The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This ordinance seeks to meet that purpose through the following objectives:

1. Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion as well as maintain the integrity of stream channels, wetlands, and tidal waters;

2. Minimize increases in nonpoint source pollution caused by stormwater runoff from development which could degrade local water quality;

3. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety:

4. Establish buffer zones along creeks, rivers, wetlands, and tidal waters to enhance water quality management and floodplain protection, and

5. Promote low impact development practices to manage stormwater as a resource and provide beneficial uses to benefit the local water supplies.

## 1.3. APPLICABILITY

This ordinance shall be applicable to all subdivision or site plan applications for property within the city limits and the city's extraterritorial jurisdiction, unless eligible for an exemption or granted a waiver by the **(jurisdictional stormwater authority)** under the specifications of Section 4 of this ordinance. The ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all development plans must be reviewed by the (jurisdictional stormwater authority) to ensure that established water quality standards will be maintained during and after development of the site and that post construction runoff levels are consistent with any local and regional watershed plans.

To manage adverse impacts of stormwater runoff, the **(jurisdictional stormwater authority)** has developed a set of performance standards that must be met at new development and re-development sites. The following activities are exempt from these stormwater performance criteria:

1. Any logging and agricultural activity

2. Additions or modifications to existing single-family structures

3. New development or redevelopment projects that do not disturb more than one acre of land and add less than 10,000 square feet of new impervious cover, provided they are not part of a larger common development plan;

4. Any part of a land development project that was approved by the **(jurisdictional stormwater authority)** prior to the adoption of this ordinance;

5. Redevelopment activities that involve the replacement of impervious cover when the original impervious cover was wholly or partially lost due to natural disaster or other acts of God occurring after the date of ordinance adoption; and

6. Repairs to any stormwater treatment practice deemed necessary by **(jurisdictional stormwater authority)**.

When a site development plan is submitted that qualifies as a redevelopment project as defined in Section 2 of this ordinance, only any newly created impervious cover is subject to these stormwater requirements. Final authorization of all redevelopment projects will be determined after a review by **(jurisdictional stormwater authority)**.

## 1.4. COMPATIBILITY WITH OTHER PERMIT AND ORDINANCE REQUIREMENTS

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, stature, or other provision of law. The requirements of this ordinance should be

considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

### 1.5. SEVERABILITY

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

### 1.6. DEVELOPMENT OF A STORMWATER DESIGN MANUAL

The **(jurisdictional stormwater authority)** has adopted the "Guidance for Sustainable Stormwater Drainage on the Texas Coast" as the local design manual. This manual includes a list of acceptable stormwater treatment practices, including the specific design criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the local review authority, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of 80% removal of total suspended solids (TSS) and manage the peak rate of runoff from the 1.5-inch storm.

## SECTION 2. DEFINITIONS

**"Applicant"** means a property owner or agent of a property owner who has filed an application for a stormwater management permit.

**"Buffer Zone"** means the vegetated area free of impervious cover and development adjacent to a creek, river, natural drainageway, wetlands, and tidal waters.

**"Building"** means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

**"Channel"** means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

**"Conservation development"** is a land use approach that adopts principles for sustainable development while protecting the property's natural resources in perpetuity, including open space preservation. A conservation development usually dedicates a minimum of 50 percent of the total development parcel as open space. High density development can be allocated to the developed portion of the parcel.

**"Dedication"** means the deliberate appropriation of property by its owner for general public use.

**"Developer"** means a person who undertakes land disturbance activities.

**"Development"** means any land modification activity including the construction of buildings, roads, paved storage areas, and parking lots for single-family subdivisions, multi-family, retail, medical, commercial, educational, and retail projects.

**"Drainage Easement"** means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

**"Payment in Lieu"** means a payment of money in place of meeting all or part of the storm water performance standards required by this ordinance.

**"Impervious Cover"** means those surfaces that cannot effectively infiltrate rainfall (including such things as building rooftops, pavement, sidewalks, paved and unpaved driveways, parking areas, and

streets, but not including swimming pools and ponds).

**"Jurisdictional Wetland"** means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**"Land Disturbance Activity"** means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

**"Landowner"** means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**"Maintenance Agreement"** means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

**"Nonpoint Source Pollution"** means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**"Off-Site Facility"** means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

**"On-Site Facility"** means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.

**"Redevelopment"** means any construction, alteration or improvement exceeding one acre or 10,000 square feet of new impervious cover in areas where existing land use is high density commercial, industrial, institutional or multi-family residential.

**"Site"** means the property boundaries encompassing a development and the area described in the permit application.

**"Stop Work Order"** means an order issued which requires that all construction activity on a site be stopped.

**"Storm water pollution prevention plan (SWPPP)"** means a plan that is prepared by designers, engineers, or contractors to minimize erosion and sedimentation during the construction process. Often the SWPPP is called a SW3P. The SWPPP is detailed in the TCEQ Construction General Permit TXR150000.

**"Stormwater Management"** means the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

**"Stormwater Runoff"** means flow on the surface of the ground, resulting from precipitation.

**"Stormwater Treatment Practices (STPs)"** means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

**"Water Quality Volume (WQv)"** means the storage needed to capture and treat the design storm identified in the stormwater guidance manual.

**"Watercourse"** means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

# SECTION 3. PERMIT PROCEDURES AND REQUIREMENTS

## 3.1. PERMIT REQUIRED.

No land owner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this ordinance prior to commencing the proposed activity.

## 3.2. APPLICATION REQUIREMENTS

Unless specifically excluded by this ordinance, any land owner or operator desiring a permit for a land disturbance activity shall submit to the **(jurisdictional stormwater authority)** a permit application containing the material required by the stormwater design manual. A pre-development planning meeting shall occur for all single-family development projects greater than 20 acres in area and all commercial (retail, medical, institutional, educational) greater than three (3) acres in area. The meeting will focus on the land plan, stormwater drainage, floodplain setbacks, buffers, water quality and flood reduction practices and may include a site investigation.

The stormwater management plan shall be prepared to meet the requirements of Sec. 5 of this ordinance, the maintenance agreement shall be prepared to meet the requirements of Sec. 7 of this ordinance, and fees shall be those established by the **(jurisdictional stormwater authority)**.

## 3.3. APPLICATION REVIEW FEES

The fee for review of any land development application shall be based on the amount of land to be disturbed at the site, and the fee structure shall be established by the **(jurisdictional stormwater authority)**. All of the monetary contributions shall be credited to a local budgetary category to support local plan review, inspection and program administration, and shall be made prior to the issuance of any building permit for the development.

## 3.4. APPLICATION PROCEDURE

1. Applications for land disturbance activity permits must be filed with the **(appropriate review agency)** on any regular business day. This can be a component of the pre-development planning meeting if required based on criteria.

2. A copy of this permit application shall be forwarded to **(jurisdictional stormwater authority)** for review .

3. Permit applications shall include the following: two copies of the stormwater management concept plan, two copies of the maintenance agreement, and any required review fees.

4. Within 20 business days of the receipt of a complete permit application, including all documents as required by this ordinance, the **(jurisdictional stormwater authority)** shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.

5. If the stormwater management plan is disapproved, the applicant may revise the stormwater management plan. If additional information is submitted, the **(jurisdictional stormwater authority)** shall have 10 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.

6. If the final stormwater management plan is approved by the **(jurisdictional stormwater authority)**, all appropriate land disturbance activity permits shall be issued.

## 3.5. PERMIT DURATION

Permits issued under this section shall be valid from the date of issuance through the date the **(jurisdictional stormwater authority)** notifies the permit holder that all stormwater management practices have passed the final inspection required under permit condition.

# SECTION 4. WAIVERS TO STORMWATER MANAGEMENT REQUIREMENTS

## 4.1. WAIVERS FOR PROVIDING STORMWATER MANAGEMENT

Every applicant shall provide for stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the (jurisdictional stormwater authority) for approval.

The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

1. Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the **(jurisdictional stormwater authority)**, and the implementation of the plan is required by local ordinance. The "Guidance for Sustainable Stormwater Drainage on the Texas Coast" provides direction for alternate standards (low impact development practices).

2. Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and to have a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice. This includes the potential for a fee-in-lieu (Section 4.2) of providing on-site stormwater management practices if the **(jurisdictional stormwater authority)** has an established stormwater management fee-in-lieu program.

In instances where one of the conditions above applies, the **(jurisdictional stormwater authority)** may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided.

Furthermore, where compliance with minimum requirements for stormwater management is waived, the applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the **(jurisdictional stormwater authority)**. Mitigation measures may include, but are not limited to, the following:

- The purchase and donation of privately-owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat;

- The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this ordinance; and

- Monetary contributions (Payment-in-Lieu) to fund stormwater management activities such as research and studies (e.g., regional wetland delineation studies, stream monitoring studies for water quality and macroinvertebrates, stream flow monitoring, threatened and endangered species studies, hydrologic studies, drainage improvements, and monitoring of stormwater management practices).

## 4.2. PAYMENT IN LIEU OF STORMWATER MANAGEMENT PRACTICES.

Where the **(jurisdictional stormwater authority)** waives all or part of the minimum stormwater management requirements, or where the waiver is based on the provision of adequate stormwater facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the **(jurisdictional stormwater authority)**.

When an applicant obtains a waiver of the required stormwater management, the monetary contribution required shall be in accordance with a fee schedule (unless the developer and the stormwater authority agree on a greater alternate contribution) established by the **(jurisdictional stormwater authority)** and based on the amount of impervious cover created by the development in

question. All of the monetary contributions shall be credited to an appropriate capital improvements program project and shall be made by the developer prior to the issuance of any building permit for the development.

### 4.3. DEDICATION OF LAND

In lieu of a monetary contribution, an applicant may obtain a waiver of the required stormwater management by entering into an agreement with the **(jurisdictional stormwater authority)** for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site stormwater management facility. The agreement shall be between the applicant and the **(jurisdictional stormwater authority)** prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit.

## SECTION 5. GENERAL PERFORMANCE CRITERIA FOR STORMWATER MANAGEMENT

Unless judged by the **(jurisdictional stormwater authority)** to be exempt or granted a waiver, the following performance criteria shall be addressed for stormwater management at all sites:

**Pre-development planning.** A pre-development/concept plan meeting shall occur for all single-family development greater than 20 acres in area and all commercial development greater than three acres in area. The meeting will focus on the land plan, buffers, stormwater drainage, floodplain, and water quality management practices. A development permit application can only be submitted after the completion of this task.

**Buffer Zones.** Buffer zones protect waterways, wetlands, and tidal waters from the short- and long-term impacts of development activities. Buffer zones shall remain free of construction, development, or other alterations except for utility and roadway crossings and low impact development parks. The number of crossings through the buffer zone shall be minimized. No stormwater treatment practices, golf courses, septic systems, or wastewater irrigation shall be located in the buffer zone. Manicured lawns and the application of herbicides shall not be allowed in the buffer. Stormwater discharge from development and water quality measures should be dispersed into overland sheet flow before reaching the buffer zone.

**Creek Buffer Zones**

Creeks or swales draining less than 320 acres but more than 40 acres shall have a minimum buffer width of 25 feet from the top of bank on each side of the creek or swale or the 100-year floodplain, whichever is greater.

Creeks or rivers draining 320 or more acres shall have a minimum buffer width of 50 feet from the top of bank on each side of the creek or river or the 100-year floodplain, whichever is greater.

**Wetland/Bay/Tidal Waters/Depression Storage Buffer Zones**

A buffer of 25 feet shall be maintained along all tidal waters/coastal marshlands, measured horizontally from the estuarine area.

A buffer of 25 feet shall be maintained along all wetlands as measured from the inland edge of the wetland.

A buffer of 25 feet shall be maintained along all depression storage basins as measured from the edge of the high-water mark. Additionally, the volume within the natural depressions deeper than two feet and with a surface area larger than 1 acre shall be calculated and maintained so as to not adversely affect upstream/downstream properties. If there are no practical alternatives to maintain the depression storage volume at its existing location, the loss of volume shall be mitigated for on-site and within the same drainage basin. These depressions can be used toward the required detention storage.

**Stormwater Detention.** All site designs shall establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater. At a minimum, the peak flow rate for the post developed condition shall not exceed the pre-developed peak flow rate for the 1.5-inch storm. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

**Stormwater Practice Sizing.** For new development and redevelopment, structural stormwater treatment practices shall be designed to remove 80% of the average annual post development total suspended solids load (TSS) from a 1.5-inch rainfall event. It is presumed that a structural practice complies with this performance standard if it is:

- sized to capture the prescribed water quality volume;
- designed according to the specific performance criteria outlined in the local *Guidance for Sustainable Practices for the Texas Coast* including the low impact development option;
- constructed properly, and
- maintained regularly.

**Erosion and Sedimentation Control.** Erosion and sedimentation shall be controlled throughout the entire development process in accordance with the *Guidance for Sustainable Stormwater Drainage on the Texas Coast* or the local stormwater design manual and the TCEQ Stormwater Pollution Prevention Plan requirements under TCEQ's Construction General Permit TXR150000.

**Water Quality Education.** A recipient of a development permit shall implement a water quality education program with residents, homeowners, and building operators using the Texas GLO and/or other approved water quality education materials that focus on water quality protection. This includes the proper use and management of herbicides, pesticides, fertilizer, and chemical handling. In addition, guidance on landscape irrigation, trash management, and septic systems should be shared with the development occupants/operators. The *Guidance for Sustainable Stormwater Drainage on the Texas Coast* can be used as a resource.

**Stormwater Practice Maintenance.** A maintenance plan developed by the design engineer and acceptable to the **(jurisdictional stormwater authority)** will be required prior to approval of the permit. The maintenance plan shall adhere to the criteria found in the *Guidance for Sustainable Stormwater Drainage on the Texas Coast*. See Section 7 below.

**Conservation Development Alternative.** Reserved.

# SECTION 6. REQUIREMENTS FOR STORMWATER MANAGEMENT PLAN APPROVAL

## 6.1. STORMWATER MANAGEMENT PLAN REQUIRED FOR ALL DEVELOPMENTS.

No application for development will be approved unless it includes a stormwater management plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must be prepared by an engineer licensed in the State of Texas and must indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices.

The stormwater management plan(s) shall be referred for comment to all other interested agencies, and any comments must be addressed in a final stormwater management plan. This final plan must be signed by a licensed professional engineer (PE), who will verify that the design of all stormwater management practices meet the submittal requirements outlined in the Submittal Checklist found in the stormwater design manual. No building, grading, or sediment control permit shall be issued until a satisfactory final stormwater management plan, or a waiver thereof, has undergone a review and been approved by the **(jurisdictional stormwater authority)** after determining that the plan or waiver is consistent with the requirements of this ordinance.

### 6.2. STORMWATER MANAGEMENT PLAN REQUIREMENTS

A stormwater management plan shall be required with all permit applications and will include the information required by the stormwater guidance manual.

The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property.

The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management measure in accordance with the specifications of this ordinance.

### 6.3. PERFORMANCE BOND/SECURITY

The **(jurisdictional stormwater authority)** may, at its discretion, require the submittal of a performance security or irrevocable letter of credit acceptable to the **(jurisdictional stormwater authority)** in the amount specified in the permit which provides for the construction of temporary erosion and sedimentation controls and site stabilization (not reclamation). The amount of the security or irrevocable letter of credit shall not be less than 100 percent of the cost as estimated by the professional engineer who seals the permit application. The security or letter of credit shall be released after the final inspection/concurrence letter from the engineer and provision of as-built plans. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan.

## SECTION 7. MAINTENANCE AND REPAIR OF STORMWATER FACILITIES

### 7.1. MAINTENANCE EASEMENT

Prior to the issuance of any permit that has a stormwater management facility as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the **(jurisdictional stormwater authority)**, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement agreement shall be recorded by the **(jurisdictional stormwater authority)** in the land records.

### 7.2. MAINTENANCE COVENANTS

Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the **(jurisdictional stormwater authority)** and recorded into the land record prior to final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.

The **(jurisdictional stormwater authority)**, in lieu of a maintenance covenant, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access by easement or otherwise, for inspection and regular maintenance.

### 7.3. REQUIREMENTS FOR MAINTENANCE COVENANTS

All stormwater management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this ordinance and accomplishment of its purposes. These needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting, vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed

in a timely manner, as determined by the **(jurisdictional stormwater authority)**, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater management facility.

### 7.4. INSPECTION OF STORMWATER FACILITIES

Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.

### 7.5. RIGHT-OF-ENTRY FOR INSPECTION

When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the **(jurisdictional stormwater authority)** the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes, but is not limited to, the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

### 7.6 FAILURE TO MAINTAIN PRACTICES

If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the **(jurisdictional stormwater authority)**, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the **(jurisdictional stormwater authority)** shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have 60 days to effect maintenance and repair of the facility in an approved manner. After proper notice, the **(jurisdictional stormwater authority)** may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the municipality.

## SECTION 8. ENFORCEMENT AND PENALTIES.

### 8.1. VIOLATIONS

Any development activity that is commenced or is conducted contrary to this ordinance, may be restrained by injunction or otherwise abated in a manner provided by law.

### 8.2. NOTICE OF VIOLATION.

When the **(jurisdictional stormwater authority)** determines that an activity is not being carried out in accordance with the requirements of this Ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

1. the name and address of the owner or applicant;
2. the address when available or a description of the building, structure or land upon which the violation is occurring;
3. a statement specifying the nature of the violation;
4. a description of the remedial measures necessary to bring the development activity into

compliance with this Ordinance and a time schedule for the completion of such remedial action;

5. a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and

6. a statement that the determination of violation may be appealed to the **(jurisdictional stormwater authority)** by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

## 8.3. STOP WORK ORDERS

Persons receiving a notice of violation will be required to halt all construction activities. This "stop work order" will be in effect until the **(jurisdictional stormwater authority)** confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in revocation of a permit as well as civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.

## 8.4. CIVIL AND CRIMINAL PENALTIES

Any person who violates the provisions of this Ordinance may be subject to civil penalties as set forth in chapter 7 of the Texas Water Code. Penalties ranging from $50 to $25,000 for each day of violation may be imposed pursuant to section 7.102 of the Water Code. Criminal penalties may also be imposed for unauthorized discharges, failure to use pollution control devises or practices, or for intentionally or knowingly submitting false information from an application or plan pursuant to Water Code sections 7.147, 7.148 and 7.149. Pursuant to Water Code section 7.187, the criminal penalties can include fines and incarceration.]

## 8.5. RESTORATION OF LANDS

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the **(jurisdictional stormwater authority)** may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

## 8.6. TERMINATION.

A development permit shall automatically terminate if the project owner/applicant has not commenced development within two years from the date of permit issuance. Pursuant to this Section, a permit may be terminated by revocation upon violation of a condition to the permit. Upon permit termination, the **(jurisdictional stormwater authority)** may call on the permittee's security bond/irrevocable letter of credit or other financial security in order to provide permanent stabilization of the Site.

## 8.7. HOLDS ON OCCUPATION PERMITS

Certificates of occupancy or other occupation permits will not be granted until a correction to all stormwater practices has been made and accepted by the **(jurisdictional stormwater authority)**.

**Approved by: _____ Date _____**