

**ORDINANCE NO. 20-278**  
**CITY OF WOODCREEK, TEXAS**

**AN ORDINANCE OF THE CITY OF WOODCREEK, TEXAS AMENDING CHAPTER 50:  
WATER QUALITY OF THE CITY OF WOODCREEK'S CODE OF ORDINANCES.  
CHAPTER 50 WAS LAST AMENDED ON FEBRUARY 10<sup>TH</sup>, 2010.**

**WHEREAS**, the City Council of the City of Woodcreek ("City Council") seeks to protect and preserve the region's water inside the city limits and extraterritorial jurisdiction (ETJ), through reasonable and area-consistent regulations; and

**WHEREAS**, the City supports the Wimberley Valley Watershed Association along with the Meadow's Center for Water and the Environment to comply with the Cypress Creek Watershed Protection Plan; and

**WHEREAS**, pursuant to Section 26.177 of the Texas Water Code, the City has 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 Ordinance 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 on February 10, 2020 the City Council adopted further amendments to the City's Water Quality Protection Ordinance that being Number 10-139; and

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

**1. FINDINGS OF FACTS**

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

## 2. ENACTMENT

Chapter 50: Water Quality of the Code of Ordinances of the City of Woodcreek is amended as to read as Attachment A, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

## 3. REPEALER

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resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.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

The City Secretary is hereby authorized and directed to record and publish the language of Chapter 50, as amended by this Ordinance, in the City's Code of Ordinances.

## 6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon its passage and the publication of caption of this ordinance.

## 7. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed and attended by a quorum of the City Council, 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.

**PASSED & APPROVED this, the 12th day of February, 2020, by a vote of 5 Ayes and 0 Nays and 0 Abstentions of the City Council of Woodcreek, Texas.**

**CITY OF WOODCREEK ATTEST:**



Gloria Whitehead, Mayor



Linda Land, City Secretary

# AMENDMENT A

## CHAPTER 50: WATER QUALITY

### **Section**

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## GENERAL PROVISIONS

### § 50.01 POPULAR NAME.

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

(Ord. 10-139, passed 2-10-2010)

### § 50.02 INTRODUCTION.

*Tex. Water Code § 26.177* provides an opportunity for municipalities to regulate water protection, water pollution and pollution abatement.

(Ord. 10-139, passed 2-10-2010)

### § 50.03 PURPOSE.

(A) This chapter 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 chapter 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.

(B) Further, it is the purpose of this chapter to:

- (1) Protect human life, health and property;
- (2) Prevent losses of endangered species and habitat of endangered species;
- (3) Protect the integrity of local ecological systems;
- (4) 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;
- (5) Help maintain a stable tax base and preserve land values;
- (6) Preserve the natural beauty and aesthetics of the community;
- (7) Control and manage the quality of storm water runoff, the sediment load in that runoff, from points and surfaces within subdivisions;
- (8) 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
- (9) Prevent degradation and pollution of ground water resources.

(Ord. 10-139, passed 2-10-2010)

### § 50.04 PROGRAM DESCRIPTION.

(A) The city's water quality protection program is comprehensive and practical.

(B) 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><i>Element of Program</i></b> | <b><i>Applicable Ordinance</i></b>       |
|----------------------------------|--|
| Development agreements           | Development agreement                    |
| Drainage                         | Water quality protection                 |
|                                  | Flood damage prevention                  |
|                                  | Site development                         |
| Impervious cover                 | Water quality protection                 |
| Land use                         | Zoning                                   |
| Lot size in ETJ                  | Water quality protection                 |
| Lot size in city limits          | Zoning                                   |
| Open Space                       | Zoning, Site Development and Subdivision |
| Preferred growth areas           | Zoning                                   |
| Public education                 | Water quality protection                 |
| Rural vision                     | Comprehensive Plan and/or Master Plan    |
| Vegetation                       | Site Development, Trees & Zoning         |
| Wastewater                       | Subdivision                              |
| Water pollution                  | Water quality protection                 |
| Water supply                     | Subdivision                              |
| Water Quality Buffer Zone        | Water quality protection                 |

(Ord. \_\_\_\_\_, passed \_\_\_\_\_)

**§ 50.05 SCOPE.**

- (A) This chapter applies to all property within the city limits and the ETJ.
- (B) This chapter does not apply to:
  - (1) Any proposed developments with less than 15% impervious cover and the street and drainage network is designed to include the use of open roadway sections, ribbon curb, drainage swales, maintenance of sheet flows and the development includes water quality buffer zones as noted in Section 50.38; or
  - (2) Subdivision lots of two or fewer single-family residences or one duplex that comply with the impervious cover limit of 30%, or
  - (3) Development or redevelopment of residential or commercial property that creates less than 5,000 square feet of new impervious cover except when the impervious cover for the new development or redevelopment added together with the existing development impervious cover exceeds 30% impervious cover for the site.

(C) A developer/owner may offer the City cash-in-lieu-of meeting the requirements of this chapter if approved by the City Council. The City may consider the cash-in-lieu if the amount will be equal to the estimated costs for construction of on-site water quality facilities for the proposed development and insofar as cash buyout is part of a valid variance or development agreement. The city will, at the Council's discretion, deposit such funds in a construction account for future regional water quality facilities.

(Ord. \_\_\_\_\_, passed \_\_\_\_\_)

## § 50.06 STANDARDS AND SPECIFICATIONS.

The Texas Commission on Environmental Quality (TCEQ) Edwards Aquifer Protection Program, Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices (RG-348) including Errata Sheet, Addendum Sheet and two Appendices establishes uniform design practices for applicants to gain compliance with this ordinance. It neither replaces the need for engineering judgment, nor precludes the use of any information relevant to the accomplishment of the purposes of this chapter. Other generally accepted or innovative and effective engineering procedures may be used in conjunction with, or instead of, those prescribed by RG-348 if approved by the City Engineer and the TCEQ, if required. RG-348 is maintained and available for download from the TCEQ website.

(Ord. \_\_\_\_\_, passed \_\_\_\_\_)

## § 50.07 MANDATE.

(A) Any person proposing to develop or improve real property within the jurisdiction of the city is subject to the provisions of this chapter.

(B) Requirements of this chapter shall be addressed in applications for plats, site development permits, rezoning, Planned Unit Development Districts (PUDDs), conditional use permits and construction permits.

(C) The city also may require development agreements, utility agreements and district formation agreement to address requirements of this chapter.

(D) It shall be an offense for any person to develop or improve real property in violation of this chapter.

(Ord. 10-139, passed 2-10-2010) Penalty, see § 50.99

## § 50.08 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. 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.

**AFFECTED PERSON.** Any person who resides within the city's jurisdiction, whose legal rights, duties or privileges may be affected by storm water 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 STORM WATER RUNOFF.** Any storm water 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 C.F.R. § 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 C.F.R. § 122.24.

**ANNUAL POLLUTANT LOAD.** The amount of pollution in storm water runoff that is discharged from a developed site over the course of one 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 chapter. The **APPLICANT** shall be the owner of the property subject to this chapter, 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 chapter.

**BACKGROUND POLLUTANT LOAD.** The amount of pollution in storm water 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 storm water 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 chapter, 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 40 feet at an average gradient greater than 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.

**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 chapter.

**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; ground water recharge areas; springs; canyon rimrocks; caves; sinkholes; faults and fractures with solution enlarged openings; and highly erodible natural features.

**CYPRESS CREEK TECHNICAL RESOURCE GUIDE.** Guide developed by the Cypress Creek project that outlines low impact development and alternate standards techniques to encourage low impervious cover development and provide guidance for developments less than 5 acres in area that are exempt from the TCEQ Edwards Aquifer Protection Rules.



**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.** The construction of buildings, roads, utilities, drainage improvements or other structures. The term includes construction, excavation, dredging, grading, filling and clearing or removing vegetation. Pruning, or other forms of general or regular maintenance of vegetation on developed property, shall not be considered *DEVELOPMENT* for purposes of this chapter. This term includes the erection of towers, placement of temporary buildings and excavation of pits or ponds.

**DISCHARGE.** Any addition or introduction of any pollutant, storm water or any other substance in a harmful quantity to a storm water 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.

**EDWARDS AQUIFER PROTECTION PROGRAM.** Program administered by the TCEQ to protect the Edwards Aquifer that is a drinking water source for San Antonio and surrounding central Texas communities.

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

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

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

**EXTREMELY HAZARDOUS SUBSTANCE.** Any substance listed in the appendices to 40 C.F.R. part 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 human-made 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:

(1) A uniform perennial vegetative cover with a minimum density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established; or

(2) 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:

- (1) The overflow of inland or tidal waters; or
- (2) 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:

- (1) A FEMA studied floodplain identified on *the FIRM (Flood Insurance Rate Maps)* as Zone AE or equivalent; or
- (2) 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 C.F.R. § 261.4(b)(1), would be classified as a hazardous waste under 40 C.F.R. part 261.

**HAZARDOUS SUBSTANCE.** Any substance listed in Table 302.4 of 40 C.F.R. part 302.

**HAZARDOUS WASTE.** Any substance identified or listed as a hazardous waste by the EPA pursuant to 40 C.F.R. part 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 chapter, the term expressly excludes storage tanks for rain water 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 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 chapter. 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 chapter.

**OWNER.** The person who owns a facility or part of a facility subject to the requirements of this chapter.

**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 *Tex. 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 storm water 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.

**RECHARGE ZONE.** The 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 lies within the Edwards Aquifer Contributing 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.** Non-putrescible solid waste, excluding ashes, that consist of:

(1) Combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves and similar materials; and

(2) Non-combustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture and similar materials that do not burn at ordinary incinerator temperatures (160°F to 180°F).

**RUNOFF.** The portion of precipitation or precipitation drainage that flows by force of gravity across ground surface as sheet flow or in a storm water 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).

**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.

**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 storm water, surface water and ground water.

**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 ground water 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.** A 400% grade, as defined for the purposes of setbacks.

**STORM WATER DRAINAGE SYSTEM.** A conveyance or system of conveyances including roads with drainage systems, catch basins, curbs, gutters, ditches, human-made channels or storm drains designed or used for collecting or conveying storm water.

**STORM WATER 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 storm water 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.

**TPDES.** Texas Pollutant Discharge Elimination System, as authorized by *Tex. Water Code Ch. 26* and administered by the TCEQ.

**TPDES GENERAL PERMIT FOR INDUSTRIAL STORM WATER DISCHARGES.** The TPDES industrial storm water multi-sector general permit TXR050000 issued by TCEQ and published in the State Register, as it may be amended or renewed from time to time.

**TPDES GENERAL PERMIT FOR CONSTRUCTION SITE STORM WATER DISCHARGES.** The TPDES general permit issued by TCEQ TXR150000 relating to discharges from construction activities and published in the State 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 U.S.C. § 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.

**TRANSFERABLE DEVELOPMENT RIGHT (TDR).** Authorization to exceed the uniform intensity levels otherwise imposed under this chapter on a less environmentally-sensitive tract of land resulting from voluntary relinquishment of development rights otherwise allowed under this chapter 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 chapter.

**VARIANCE.** A grant of relief to a person from the requirements of this chapter 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 ground water, 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 watercourses 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 ground water 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.

(Ord. \_\_\_\_\_, passed \_\_\_\_\_)

## PROHIBITIONS AND RESTRICTED ACTIVITIES

### § 50.20 GENERAL PROHIBITIONS.

(A) Except as otherwise specifically authorized by this chapter, 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.

(B) Except as otherwise specifically authorized by this chapter, no person shall introduce or cause to be introduced into a storm water drainage system any pollutants or other discharge that is not composed entirely of storm water, except where otherwise exempt or allowed through permit by the TCEQ.

(Ord. 10-139, passed 2-10-2010) Penalty, see § 50.99

## **§ 50.21 SPECIFIC PROHIBITIONS.**

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

(B) No person shall introduce, discharge or cause, suffer or allow a release of any harmful quantity of the following substances into a storm water drainage system:

- (1) Used motor oil, antifreeze or any other motor vehicle fluid;
- (2) Industrial waste;
- (3) Hazardous waste, including hazardous household waste;
- (4) Domestic sewage or septic tank waste, grease trap waste or grit trap waste;
- (5) Garbage, rubbish or yard waste beyond that which typically washes off a yard during a rain event;
- (6) 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;
- (7) Wastewater from the washing, cleaning, de-icing or other maintenance of aircraft;
- (8) 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;
- (9) Wastewater from commercial floor, rug or carpet cleaning;
- (10) 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;
- (11) Effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter or the blowdown from a boiler;
- (12) 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;
- (13) Runoff or washdown water from any animal pen, kennel or fowl or livestock containment area;
- (14) Filter backwash from a swimming pool, fountain or spa;
- (15) 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;
- (16) 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;

(17) Fire protection water containing oil or hazardous substances or materials (except for discharges or flows from firefighting activities by a locally accredited fire department);

(18) Water from a water curtain in a spray room used for painting vehicles or equipment;

(19) Contaminated runoff from a vehicle wrecking yard;

(20) Substance or material that will damage, block or clog the storm water drainage system; and/or

(21) 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;

(a) The discharge complies with all state and federal standards and requirements;

(b) Discharge does not contain a harmful quantity of any pollutant; and

(c) 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).

(C) No person shall introduce or cause to be introduced into a storm water 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 chapter.

(D) No person shall connect a line conveying sanitary sewage, whether domestic or industrial, to a storm water drainage system, nor allow such a connection to continue if discovered.

(E) No person shall cause or allow any pavement washwater from a service station to be discharged into a storm water drainage system unless such washwater has first passed through a grease, oil and sand interceptor which is properly functioning and maintained.

(F) 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, storm water drainage system or tributary.

(Ord. 10-139, passed 2-10-2010) Penalty, see § 50.99

## **§ 50.22 PESTICIDES, HERBICIDES AND FERTILIZERS.**

(A) 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.

(B) 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.

(C) 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 storm water drainage system or waters of the United States.

(D) 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 storm water drainage system or waters in the state.

(Ord. 10-139, passed 2-10-2010) Penalty, see § 50.99

## § 50.23 USED OIL.

(A) No person shall:

- (1) Discharge used oil into a storm water drainage system or a sewer, drainage system, septic tank, surface water, ground water or watercourse;
- (2) 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; and/or
- (3) Apply used oil to a road or land for dust suppression, weed abatement or other similar use that introduces used oil into the environment.

(B) 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.

(C) 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.

(Ord. 10-139, passed 2-10-2010) Penalty, see § 50.99

## REGULATIONS AND STANDARDS

### § 50.35 GENERAL PERFORMANCE STANDARDS.

Except as otherwise provided in this chapter, all development subject to this chapter shall achieve the following performance standards:

(A) It is the objective of these regulations to protect water quality, drainageways, and groundwater from channel erosion and stormwater runoff pollution.

(B) All new development shall achieve the pollutant removal standards detailed in this Section through the design and implementation of structural and nonstructural BMPs and water quality controls. These standards shall apply to an entire project for which a unified development scheme is intended by the applicant, without regard to whether the project is comprised of more than one lot. These regulations cannot be avoided by dividing a single project into several small lots.

The "TCEQ Edwards Aquifer Rules – Technical Guidance on Best Management Practices, RG-348" (*Manual*) shall be used to guide efforts to achieve the performance standards for *development* set forth in this Chapter. The *Manual* describes in detail the technical criteria and procedures to be used to comply with provisions of this Chapter. It neither replaces the need for engineering judgment nor precludes the use of any information relevant to the accomplishment of the purposes of this Chapter. If approved by the City Engineer and TCEQ, other generally accepted, or innovative and effective, engineering designs, practices and procedures may be used in conjunction with, or instead of, those prescribed by the *Manual*.

(C) Performance Standards: All new development that adds more than 5,000 square feet of new impervious cover is subject to the following requirements:

- (1) 5 acres or less and not part of a common plan of development (i.e., exempt from *TCEQ Edwards Rules*): Technical demonstration that the water quality volume is retained on site for not less than 24 hours through the use of conventional and low impact development techniques found in the *Cypress Creek Technical Resource Guide*.



- (2) Greater than 5 acres: Technical demonstration of pollutant load removal is required by obtaining Contributing Zone Plan (CZP) approval from TCEQ unless the project is exempt from the TCEQ requirements due to proposed impervious cover levels less than TCEQ thresholds for permitting. If exempt from TCEQ Edwards CZP, then, the project shall comply with the *Cypress Creek Technical Resource Guide* and obtain City approval prior to commencing construction.

(D) Alternate Standards

- (1) As an incentive to reduce impervious cover, all Developments with less than 15% impervious cover that are exempt from the *TCEQ Edwards Rules* are not required to provide technical demonstration for removal of pollutants, but must incorporate sufficient water quality control measures to comply with the provisions found in the *Cypress Creek Technical Resource Guide*. Development eligible for these Alternate Standards must meet the following requirements:
  - The development impervious cover is 15 percent or less and the cluster development sections (individual drainage areas) have 20 percent or less gross impervious cover.
  - Street and drainage network is designed to include the use of open-roadway sections, ribbon curb, grassy channels, and maximize sheet flow.

(E) Water Quality Controls (WQC) Maintenance

- (1) An applicant for a subdivision plat or a site development permit shall submit a WQC Maintenance Plan describing the specific measures proposed for operating, monitoring, and maintaining each water quality control facility proposed for a development project as required by this Chapter. The measures described in the WQC Maintenance Plan shall be consistent with the guidelines set forth in the Manual. City approval of the WQC Maintenance Plan is required prior to approval of a plat or issuance of a site development permit.
- (2) Upon City approval of the WQC Maintenance Plan, the project applicant shall record in the county deed records and on any recorded plat(s) for the development a notation stating that the property is subject to a Water Quality Control Maintenance Plan on file at the City's administrative offices. Upon transferring title to the property, or any subdivided portion thereof, the applicant shall establish a deed restriction stating that the property is subject to a Water Quality Control Maintenance Plan on file at the City's administrative offices.
- (3) All owners of water quality control facilities shall operate, monitor, and maintain each water quality control facility required by this Chapter in accordance with the WQC Maintenance Plan and the requirements of this Chapter.
- (4) The WQC Maintenance Plan may provide for transfer of responsibility for WQC operation and maintenance activities to:
  - (a) a groundwater district, a municipal utility district, a public utility district, or any other special district created under state law;
  - (b) a homeowners' or property owners' association;
  - (c) a natural resources conservation or other environmental interest group; or
  - (d) any similar third-party entity.

Transfer of responsibility to any such entity requires the advance written consent of the City. Any entity assuming responsibility for WQC operation and maintenance shall also assume responsibility for the financial assurance as may be required by the City Council.

(F) Construction Phase Erosion and Sedimentation Control

Erosion and sedimentation shall be controlled throughout the entire development process in accordance with the TCEQ Edwards Aquifer Manual.

- (1) Preparation of and adherence to a TCEQ Stormwater Pollution Prevention Plan (SWPPP) shall be considered to meet the requirement for erosion and sedimentation control. The permittee shall make the SWPPP inspection reports and records available to City staff upon request.
- (2) Site disturbance must be phased to limit soil erosion and final stabilization shall be accomplished with each phase.
- (3) Sediment basins are required for drainage areas serving at least 10 acres and are sized to capture the runoff from the 2-year 24-hour storm (8,000 cubic feet per acre). The runoff shall be detained for a minimum of 48 hours. Sediment basins cannot be installed in drainage areas greater than 40 acres and are not allowed in the Water Quality Buffer Zone.

(Ord. \_\_\_\_\_, passed \_\_\_\_\_)

### **§ 50.36 WATER QUALITY DESIGN THRESHOLD.**

- (A) The design storm event for water quality is defined in the *TCEQ Edwards Aquifer Technical Guidance, RG-348*.
- (B) The pollutant loadings shall be calculated in accordance with *TCEQ RG-348*.

(Ord. \_\_\_\_\_, passed \_\_\_\_\_)

### **§ 50.37 IMPERVIOUS COVER.**

(A) *Maximum limitations.* A 30% maximum limitation on impervious cover is hereby established for any new development or redevelopment added together with the existing development for the site.

(B) *Impervious cover limit calculations.* Impervious cover limits in this section are expressed as a percentage of the gross site area of the subject tract. For purposes of calculation of impervious cover limits, the gross site area includes water quality buffer zone (WQBZ) areas and critical environmental feature (CEF) setback areas.

(C) *Human-made improvements.* Impervious cover shall include all human-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:

- (1) Roads, pavements and driveways;
- (2) Parking areas;
- (3) Buildings;
- (4) Pedestrian walkways and sidewalks;
- (5) Concrete, asphalt, masonry, surfaced areas and paving stone surfaced areas;
- (6) Swimming pool water surface area;
- (7) Densely compacted natural soils or fills which result in a coefficient of permeability less than  $1 \times 10^{-6}$  cm/sec;
- (8) All existing human-made impervious surfaces prior to development;
- (9) Water quality and storm water detention basins lined with impermeable materials;
- (10) Storm water drainage conveyance structures lined with impermeable materials; and
- (12) Fifty percent of the horizontal surface area of an uncovered deck that has drainage spaces between the deck boards that is located over a pervious surface.

(D) *Exceptions to impervious cover calculations.*

- (1) Existing roads adjacent to the development and not constructed as part of the development at an earlier phase;
- (2) Naturally occurring impervious features, such as rock out crops;
- (3) Landscaped areas and areas remaining in their natural state;
- (4) Water quality controls and storm water detention basins not lined with impermeable materials; and
- (5) Storm water drainage conveyance structures not lined with impermeable materials.
- (6) Interlocking or "permeable pavers" based on percent of permeability;
- (7) Functioning rainwater harvesting systems.

(E) *Reduction incentives.*

- (1) Rainwater harvesting. Rainwater harvesting consists of a series of components designed to capture, store and reuse rainwater. A rainwater harvesting system consists of six basic components including:
  - (a) Catchment area/roof, which is the surface on which the rain falls;
  - (b) Gutters and downspouts, which transport the water from the catchment area to storage;
  - (c) Leaf screens and roof washers, which are used to filter out debris;
  - (d) Cisterns or storage tanks where collected rainfall is stored;
  - (e) Conveyance, which is the method of delivering the water either by gravity or pump; and
  - (f) Water treatment, which includes filters and equipment that are used to settle, filter, and disinfect the water if it is to be used for drinking water.
- (2) A rainwater harvesting system approved under this article shall comply with the following minimum requirements:
  - (a) The entire system, including rainwater collection, conveyance and storage, shall be isolated from the site stormwater system.
  - (b) The collected rainwater shall be used for on-site irrigation or other purposes as approved by the city.
  - (c) The system shall comply with the pollution control performance standards of section 50.35.
  - (d) The on-site irrigation system shall be designed in accordance with standard irrigation practices considering such factors as soil type, slope, and vegetative uptake rates.
- (3) Rainwater collection and containment structures functioning as a rainwater harvesting system are not considered impervious cover. Such structures and/or improvements can be used to obtain credit towards any impervious cover requirement set forth in this article. Structures and/or improvements (e.g., building roofs, patios, awnings, etc.) from which stormwater is harvested are considered impervious cover.
- (4) In order to qualify to receive credit for a rainwater harvesting system, the system must be designed to exceed normal draw (i.e., no credit will be given if the tank routinely stays full). Credit is just for the tank cover. In order to qualify, the applicant must demonstrate where water is going. (e.g., how it will be drawn down, use as non-potable source rainwater, or irrigation).
- (5) Credits can zero-out impervious cover for purposes of calculating runoff treatment for the captured area. Applicants may also get up to 10 percentage points credit toward additional cover. The calculation procedures are found in the *Cypress Creek Technical Resource Guide*.

(F) *Restrictions on siting of impervious cover.*

- (1) Impervious cover shall not be constructed downstream of water quality controls except for specific instances reviewed and approved by the City engineer.
- (2) Impervious cover shall not be constructed within WQBZs except as allowed by this Ordinance.
- (3) Impervious cover shall not be constructed within critical environmental feature setback areas.
- (4) Impervious cover shall not be constructed within the areas designated for on-site irrigation of treated wastewater effluent disposal and/or captured stormwater.

(Ord. \_\_\_\_\_, passed \_\_\_\_\_)

## **§ 50.38 WATER QUALITY BUFFER ZONES.**

(A) This section is applied at the time of the platting (creation of newly-subdivided lots or site plans). This section does not apply to legally platted lots that existed as of the effective date of this chapter. There are two options to define the water quality buffer zone (WQBZ) limits. The site developer can select Option 1 (Setbacks) or Option 2 (Floodplain)

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

### **OPTION 1 - Setbacks**

- (1) Greater than 5 acres and up to 40 acres and excluding roadside swales. The WQBZ shall extend a minimum of 25 feet from either side of the centerline of the waterway (total of 50 feet of buffer zone).
- (2) Greater than 40 acres and up to 128 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).
- (3) Greater than 128 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).
- (4) Greater than 320 acres and up to 6480 acre. 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).
- (5) Greater than 640 acres. 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).

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 640 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 400 feet).

### **OPTION 2 – Floodplain**

For creeks or rivers draining less than 40 square miles but more than five (5) acres, excluding roadside swales, the WQBZ shall extend a minimum of 25 feet from the 100-year floodplain boundary paralleling each side of the creek or river. The 100-year floodplain shall be based on modeling approaches as approved by the City Engineer. For creeks or rivers draining more than 40 square miles, the WQBZ shall be considered equal to the 100-year floodplain as designated by the Federal Emergency Management Agency or by an engineered floodplain study approved by the City Engineer.

- (1) 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 25 feet beyond the edge of the wetland.
- (2) If two or more WQBZs overlap, the widest of the buffer zones shall be established.

(C) Except as specifically provided for in this section, all development activities, including temporary construction activities, structural water quality treatment BMPs and landscaping activities, are prohibited in the water quality buffer zone of a waterway.

(D) The following development activities within a WQBZ may be allowed at the sole discretion of the city with the corresponding conditions:

- (1) Critical utility crossings if the number of crossings of the WQBZ is limited to the maximum feasible extent;
- (2) Critical roadway crossings if the number of crossings of the WQBZ is limited to the maximum feasible extent;
- (3) Critical transportation crossings if the number of crossings of the WQBZ is limited to the maximum feasible extent;
- (4) Hike and bike trails if provided for in an approved development plan;
- (5) Maintenance and restoration of natural vegetation;
- (6) Water quality control monitoring devices;
- (7) Removal of trash, debris, pollutants;
- (8) Fences that do not obstruct flood flows;
- (9) 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
- (10) Private drives to allow access to property not otherwise accessible.
- (11) Regional detention structures for the purpose of managing flooding where the embankment/structure occupies a narrow footprint and minimal excavation takes place in the flood storage pool, for example, the detention storage cannot be created by excavating the flood pool. Limited vegetation clearing is allowed to construct the embankment and outlet works.

(E) Any development within a WQBZ allowed under division (E) 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 100 feet from the centerline 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.

(F) All water quality control discharges and storm water discharges shall not be directly connected to the WQBZ. Instead, concentrated runoff shall be converted to diffused, overland sheet flow and shall have peak velocities of less than five feet per second at the two-year unless demonstration is provided that this is not achievable with the proposed BMPs for managing storm water runoff and quality, or that other means of diffusing the velocity of the runoff is provided that will protect the affected stream's morphology.

(Ord. \_\_\_\_\_, passed \_\_\_\_\_)

## **§ 50.39 ENVIRONMENTAL FEATURES.**

(A) Sensitive features must be identified before the tract is subdivided and proposed locations for roads defined so they may be avoided.

(B) 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 Manager.

(C) 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.

(D) 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 300 feet, whichever is less, but in no circumstances no less than 150 feet.

(Ord. \_\_\_\_\_, passed \_\_\_\_\_)

## **§ 50.40 EROSION FLOW CONTROL.**

(A) No untreated storm water runoff from developed land shall be allowed to flow over critical environmental features.

(B) All roof runoff from non-residential buildings shall have downspouts disconnected from the site storm water drainage system. Special circumstances may be reviewed and approved by the city without a waiver to this requirement.

(C) 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 storm water. All discharge points from storm water retention and detention ponds or other accumulation areas shall provide for energy dissipation prior to exiting the site.

(D) 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.

(E) 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 and the outlet is stable and prevents downstream scour.

(F) Overland flow facilities for a storm water drainage system shall be designed in accordance with the criteria of the *Hays County Drainage Criteria Manual*.

(Ord. \_\_\_\_\_, passed \_\_\_\_\_)

## **§ 50.41 INFILTRATION.**

(A) To the maximum extent practical, water quality controls shall be designed to restore the infiltration capacity of pre-development conditions.

(B) Infiltration BMPs shall be designed in accordance with the *Edwards Aquifer Technical Guidance Manual RG-348* or the *Cypress Creek Technical Resource Guide*

(C) Infiltration systems shall be designed and located to avoid impacts to existing springs and recharge structures.

(Ord. \_\_\_\_\_, passed \_\_\_\_\_)

## **§ 50.42 STEEP SLOPES.**

(A) To the maximum extent practical, non-residential construction shall be limited to those areas with pre-development natural grades of less than 25%.

(B) Erosion control, terracing and water quality control BMPs shall be designed in accordance with the *Edwards Aquifer Technical Guidance Manual RG-348* or the *Cypress Creek Technical Resource Guide*.

(C) A cut or fill with a finished gradient steeper than 33% shall be stabilized with a permanent structure.

(Ord. \_\_\_\_\_, passed \_\_\_\_\_)

## **§ 50.43 VEGETATION.**

(A) To the maximum extent practical:

(1) Landscape shall be preserved in its natural state;

(2) Xeriscape and low maintenance vegetation shall be included in all non-residential development in accordance with the specifications in the *Edwards Aquifer Technical Guidance Manual RG-348* or the *Cypress Creek Technical Resource Guide*; and

(3) The use of herbicides, pesticides and fertilizers shall be minimized.

(B) 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:

(1) Those which, due to their chemical characteristics, potentially contribute significantly to water quality degradation; and

(2) Those which, due to the chemical characteristics, potentially would result in minimal water quality degradation.

(C) An integrated pest management (IPM) plan shall be submitted.

(D) Vegetative BMPs, such as vegetative filter strips, shall be designed in accordance with the *Edwards Aquifer Technical Guidance Manual RG-348* or the *Cypress Creek Technical Resource Guide*.

(Ord. \_\_\_\_\_, passed \_\_\_\_\_)

## **§ 50.44 HAZARDOUS MATERIAL TRAPS.**

(A) Hazardous material traps (HMTs) must be constructed for four-lane minor or major arterials that are designed for traffic greater than 5,000 vehicles per day.

(B) HMTs are designed to retain a spill of 10,000 gallons of liquid hazardous material.

(Ord. 10-139, passed 2-10-2010)

## **VARIANCES**

### **§ 50.60 PRESUMPTION.**

(A) There shall be a presumption against variances.

(B) However, if the applicant requests a variance in writing, the Board of Adjustment may authorize a waiver from these regulations in accordance with this chapter.

(Ord. 10-139, passed 2-10-2010)

### **§ 50.61 IDENTIFICATION.**

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

(Ord. 10-139, passed 2-10-2010)

## **§ 50.62 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.

(Ord. 10-139, passed 2-10-2010)

## **§ 50.63 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.

(Ord. 10-139, passed 2-10-2010)

## **§ 50.64 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) There are special circumstances or conditions affecting the land involved, such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of this land;

(B) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;

(C) 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) 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 chapter.

(Ord. 10-139, passed 2-10-2010)

## **§ 50.65 PECUNIARY HARDSHIP.**

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

(Ord. 10-139, passed 2-10-2010)

## **§ 50.66 MINIMUM DEPARTURE.**

When the Board of Adjustment determines that a variance is warranted, the variance permitted shall be the minimum departure from the terms of this chapter 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.

(Ord. 10-139, passed 2-10-2010)

## **§ 50.67 ADEQUATE BASIS; FAVORABLE OUTCOMES; POTENTIAL MITIGATION.**

(A) 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 non-conforming 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 chapter.



(B) 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:

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

(Ord. 10-139, passed 2-10-2010)

## **PENALTY**

### **§ 50.99 PENALTY.**

(A) *Civil enforcement.* The city shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person violating any provision of this chapter is subject to suit for injunctive relief. Any violation of this chapter is hereby declared to be a nuisance.

(B) *Civil remedies.* Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to, the following:

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

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

(D) *Administrative action.*

(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 chapter, 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.

(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 chapter. 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.

(Ord. 10-139, passed 2-10-2010)