

**LOWER COLORADO RIVER AUTHORITY
HIGHLAND LAKES WATERSHED ORDINANCE**

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HIGHLAND LAKES WATERSHED ORDINANCE

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HIGHLAND LAKES WATERSHED ORDINANCE

SECTION 1. TITLE AND SCOPE

This Ordinance shall be known and may be cited as the LCRA Highland Lakes Watershed Ordinance. This Ordinance shall apply to the Lake Travis watershed in Travis County, the portions of Burnet County and Llano County in the Colorado River Watershed identified on the official Ordinance Watershed Map, adopted as part of the Ordinance. See Attachment 1 – Ordinance Watershed Map.

SECTION 2. AUTHORITY

This Ordinance is promulgated under the authority of the LCRA Enabling Act, specifically Texas Water Code Section 222.004 (a), (d), (e) (q) and other applicable law.

SECTION 3. DEFINITIONS

Acre: A unit of area equal to 43,560 square feet.

Adjacent Property Owner: A Landowner or Land User whose property line, or any portion thereof directly borders or touches a property line belonging to the property, or properties, for which the LCRA has received an application for a Permit pursuant to this Ordinance.

Active Quarry/Mine: A Quarry or Mine that is in Continuous Operation or as determined on a case by case basis by LCRA during the annual investigation in cooperation with the owner/operator.

Affected Person: Any Person who has a personal, justiciable interest and whose legal rights, duties or privileges may be adversely affected by Stormwater Runoff Pollution from any proposed Development for which a Permit is required under this Ordinance.

Aggregate: Any commonly recognized construction material originating by the disturbance of the surface, including dirt, soil, rock asphalt, clay, granite, gravel, gypsum, marble, sand, shale, stone, caliche, limestone, dolomite, rock, rip rap, dimension stone, minerals, or other similar substance.

Agricultural Activities: All activities associated with the production of livestock or use of the land for planting, growing, cultivating and harvesting crops, or participating in a wildlife management plan.

Alternate Standards: Requirements that may apply to a Single-family Subdivision Development or Commercial Development meeting the performance standards found in Section 5(b)(2)(i) and (ii).

Applicant: A Landowner or Land User (or their duly authorized designee) who applies for a Permit under this Ordinance.

Best Management Practices (BMPs): Those practices, including but not limited to those described in LCRA's Technical Manual that effectively manage Stormwater Runoff quality and volume.

Best Management Practice (BMP) Maintenance Permit – A Permit for the maintenance of permanent BMPs.

Board: The Board of Directors of LCRA.

Buffer Zone: Vegetated area free of Impervious Cover adjacent to a Creek, river or natural drainageway.

Cluster Development: A confined area of housing or Commercial Development that is separated from other Development areas by undeveloped land.

Colorado River Watershed: All area draining into the Colorado River in Texas.

Commercial Development: All Development other than open space, a Single-family Residence, or Single-family Subdivision Development excluding a Quarry or Mine.

Continuous Operation: A Quarry or Mine where surface or subsurface Excavation, stockpiling, Quarry and Mine site improvements, sales of material, shipping of material, processing and/or reclamation has occurred within the past one (1) year by the Quarry/Mine Owner or Operator.

Creek: A well-defined channel that can convey running water.

Development: All land modification activity, including the construction of buildings, roads, paved storage areas and parking lots for single-family subdivisions, multi-family, retail, medical, educational, and Commercial Development. Development also includes, but is not limited to, any land disturbing construction activities or human-made change of the land surface including clearing of vegetative cover, excavating, leveling, grading, contouring, and the deposit of refuse, waste, or Fill. Care and maintenance of lawns, gardens, and trees, minimal clearing (a maximum of 15 feet wide for development project surveying and testing and 20 feet wide for quarry exploration), and Agricultural Activities are excluded from this definition.

Development Permit – A Permit for Development of land within the jurisdictional area specifically addressing Best Management Practices for control of Stormwater Runoff Pollution resulting from Development. Development Permits may also address the installation of utility infrastructure by private Landowners and Land Users.

District: LCRA's 10-county statutory District, comprised of San Saba, Llano, Burnet, Blanco, Travis, Bastrop, Fayette, Colorado, Wharton and Matagorda counties.

Disturbed: The land surface that is modified by activities such as clearing, grading, filling, and Excavation.

Dredge: The removal of material from below the stated normal conservation pool elevations of the lakes.

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

Excavation: The removal of earthen material, rock, or soil to create a depression below the original topography. When used in reference to a Quarry/Mine, the removal of said material in a commercially significant quantity.

Existing Development: Any completed Development and any property that has obtained final plat approval from a governmental entity prior to February 1, 1990, in the Lake Travis Watershed in Travis County or March 19, 1992, in Llano County or Burnet County in the Colorado River Watershed as reflected in Attachment 2. Provided that a property has not been replatted after February 1, 1990 in Travis County and March, 19, 1992 in Burnet and Llano Counties.

Fast Track Permit: A Permit for Development that complies with Alternate Standards. The Fast Track Permit is issued in a shorter time period than the standard Development Permit due to Site planning approaches that limit water quality impacts.

Fill: Any material, structure, wall, rip-rap or revetment below the stated normal conservation pool elevations of the lakes.

Final Stabilization: All soil disturbing activities at the Site that have been completed and a uniform (e.g. unevenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures, such as rip-rap, gabions, or geotextile fabric, have been employed.

General Utility Permit: A Permit designed for utility construction in a public right-of-way by a Public Utility whereby the Public Utility complies with the Ordinance and the LCRA Technical Manual. The General Utility Permit covers all routine construction, maintenance and repair work anywhere within the jurisdictional area without having to obtain a Permit for each project.

Groundwater Conservation District: Means a groundwater conservation district as it is defined in Chapter 36, Texas Water Code, currently defining a "groundwater conservation district" as a district created under Section 52, Article III and Section 59, Article XVI Texas Constitution, that has the authority to regulate the spacing of water wells, the production from water wells, or both.

Impervious Cover: Impermeable surfaces, such as pavement, sidewalks or rooftops that prevent the infiltration of water into the soil.

Innovative BMPs: Those practices designed by the Applicant's engineer to meet or exceed LCRA's performance standards but which are not described in LCRA's Technical Manual.

Landowner: Any Person holding legal or equitable title to or having a fee simple ownership interest in 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.

LCRA: Lower Colorado River Authority

LCRA General Counsel: The General Counsel of the LCRA or his/her designee.

LCRA General Manager: The General Manager of the LCRA or his/her designee.

LCRA Technical Manual: The manual developed by LCRA that detail various BMPs that achieve the standards set forth in Section 5 of this Ordinance. The LCRA Technical Manual, including amendments to the Manual that have been or will be made pursuant to Section 13(b) of this Ordinance, is incorporated herein by reference as if set forth in full.

Low Impact Development: Site and subdivision Development that incorporates design approaches that mimic the existing hydrologic conditions while employing localized Pollution prevention measures to manage hydrology and water quality.

Master Plan: A conceptual plan of a multi-phased Development showing the order of Phased Development, environmental features (such as Creeks, tributaries, slopes, etc.), roads, and proposed location of water quality protection measures for the Development.

Mine: An Excavation in the earth from which ores, coal, limestone or other mineral substances are being or have been removed by excavation or other mining methods. A Mine shall include an area of land or surface actively or previously mined for the production of dimension stone, crushed or broken stone, construction sand and gravel, clay, and/or industrial sand.

Ordinance: Highland Lake Watershed Ordinance. This Ordinance is a merger and combination of amendments to the former Lake Travis Nonpoint Source Pollution Control Ordinance and the former Upper Highland Lakes Nonpoint Source Pollution Control Ordinance (the Ordinances). The Ordinances are combined and renamed the Highland Lakes Watershed Ordinance. The Lake Travis Nonpoint Source Pollution Control Ordinance and the Upper Highland Lakes Nonpoint Source Pollution Control Ordinance shall continue in effect until February 1, 2006, although the separate requirements of these former Ordinances are now combined in this Ordinance.

Ordinance Watershed Map: Map accompanying the LCRA Ordinance and LCRA Technical Manual that delineates the area subject to the Ordinance coverage as shown in Attachment 1.

Permit: An authorization issued by LCRA in accordance with the procedures prescribed in this Ordinance including an authorization to especially address BMPs for control of stormwater runoff pollution resulting from Development and Quarry activities.

Permit Amendment: A revision to a Development Permit issued by LCRA after an application for such amendment has been received and reviewed, and the expansion, Redevelopment, or modification plans have been found to be in compliance with this Ordinance and the LCRA Technical Manual. Permit Amendment procedures are described in the LCRA Technical Manual.

Permittee: A Landowner or Land User authorized to undertake land Development activities pursuant to a Permit granted according to the provisions of this Ordinance.

Person: Any individual, organization, trust, partnership, firm, association, public or private corporation, Political Subdivision or any other legal entity.

Phased Development: Development of land according to a Master Plan which occurs in stages and over an extended period of time.

Pit: An open Excavation not less than five (5) feet below the adjacent and natural ground level from which Aggregate has been or is being extracted for a Quarry/Mine activity.

Political Subdivision: A city, county, district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution and any other political subdivision of the state.

Pollution: 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, property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Project: Development, Mine or Quarry that is subject to the Ordinance.

Quarry: A Site where Aggregates are being or have been removed or extracted from the earth to form the Pit or Mine, including the entire Excavation, stripped areas, haulage ramps, and the land under ownership, lease, or mineral rights immediately adjacent thereto upon which the plant processing the raw materials is located, exclusive of any land owned or leased by the Quarry Operator/Owner not being currently used in the production of Aggregate.

Quarry/Mine Exploration: Activities including but not limited to core drilling, testing, and sampling to determine Aggregate type and volume.

Quarry/Mine Operator: Any person, partnership, firm, or corporation engaged in and responsible for the physical operation and control of the extraction of Aggregate.

Quarry/Mine Owner: Any person, partnership, firm, or corporation having title, in whole or in part, to the land on which an Aggregate operation exists or has existed.

Quarry/Mine Permit: A Permit for quarrying and mining within the jurisdictional area specifically addressing Best Management Practices for control of Stormwater Runoff Pollution resulting from mines and quarry activities

Reclamation: The process of removing structures, equipment, re-grading and re-vegetating as necessary for restoration of land affected by quarrying/mining to protect water quality and maintain compliance with this Ordinance.

Redevelopment: Any rebuilding, renovation, replat of property, revisions, remodel, reconstruction of an Existing Development or redesign of an Existing Development occurring after February 1, 1990, in the Lake Travis Watershed in Travis County, or March 19, 1992 in Llano County or Burnet in the Colorado River Watershed as reflected in Attachment 2, and which does not cumulatively increase Impervious Cover by 10,000 square feet or more.

Sedimentation: Deposition of detached soil particles.

Shoreline Stabilization: The construction of structures such as revetment, rip-rap, retaining walls, bulkheads as defined in the LCRA Technical Manual and any approved innovative practices constructed to stabilize the shoreline of a body of water.

Single-family Subdivision Development: A Development subdivision consisting of two or more Single-family Residences.

Single-family Residence: One- and two-family dwelling units designed for occupancy by one or two families as a residence.

Site: The property boundaries encompassing a Development, Quarry, or Mine and the area described within a Permit application.

Stormwater Runoff: The portion of the precipitation on the land that flows over the surface and may reach Creeks, rivers, and/or lakes.

Stormwater Runoff Pollution: Pollution that is caused by or attributable to diffuse sources. Typically, Stormwater Runoff Pollution results from land runoff, precipitation, atmospheric disposition or percolation.

Structural BMPs: A Best Management Practice requiring construction using concrete, steel, mechanical systems, piping, grading, filling or other structural materials or techniques as part of a water quality facility that detains or retains stormwater runoff. Vegetation practices such as buffer areas, filter strips, swales, and certain wetland types are not considered Structural BMPs.

Texas Commission on Environmental Quality Stormwater Pollution Prevention Plan (TCEQ SWPPP): The plan defined in the Construction Stormwater General Permit or Multi-Sector Industrial Permit to manage construction activities to minimize the discharge of sediment and pollutants during construction of a Development or operation of a Quarry.

Utility: A Person that owns or operates, for compensation, facilities or equipment for producing, generating, transmitting, selling or furnishing services including electricity, petroleum products, water, natural gas, sewer service, cable or telephone services.

Vegetation: Plant life or total plant cover on a land surface.

Water Operations Committee: The LCRA Water Operations Committee of the LCRA Board of Directors or any subsequent Board Committee established and designated by the LCRA Board to consider appeals pursuant to this Ordinance.

SECTION 4. PERMIT DETERMINATION

Subchapter A – Development Activity

(a) **Exemptions.** The following are exempt from the provisions of this Ordinance and are not required to file an application for or obtain a Permit pursuant to this Ordinance:

(1) **Development** within a Political Subdivision that has adopted and maintains in effect LCRA's Ordinance and enters into an inter-local agreement with LCRA; or

- (2) **Development** within a Political Subdivision that has adopted an Ordinance that LCRA determines provides for management of stormwater Pollution that is equal to or greater than that provided by this Ordinance and the Political Subdivision enters into an interlocal agreement with LCRA agreeing that the Ordinance shall apply to any Development that receives an exemption, waiver or variance from the Municipal Ordinance if such exemption, waiver or variance will cause significant Stormwater Runoff Pollution; or
- (3) **Dredge and Fill activities** as defined in the Ordinance and provided that the activities comply with the LCRA Dredge and Fill Standards of the Technical Manual. Projects that dredge more than 500 cubic yards or disturb more than 500 linear feet of shoreline shall provide written notification per Section 4 (b); and
- (4) **Agricultural Activities** as defined in this Ordinance.

(b) Written Notification. Landowners or Land Users who conduct Development or Redevelopment within the area subject to the jurisdiction of this Ordinance shall be allowed to conduct such activities **without obtaining a Permit** if the Development or Redevelopment falls within any one of the following subsections and the associated conditions are met. Written notification to LCRA is required prior to commencing the activity. In the written notification, the Applicant shall demonstrate how the activity falls within the provisions of this subsection.

Note: The purpose of this section is to authorize Development or Redevelopment to occur with little, if any, delay or paperwork. Failure to comply with a condition does not necessarily mean the activity cannot be authorized, but rather that the activity may need a Development Permit to be authorized.

- (1) Development or Redevelopment located on a property that obtained final plat approval from a governmental entity prior to February 1, 1990, in the Lake Travis watershed in Travis County, or March 19, 1992, in Llano County or Burnet County in the Colorado River Watershed. Provided that a property has not been replatted after February 1, 1990 in Travis County and March 19, 1992 in Burnet and Llano counties and that Erosion and Sedimentation Control is provided per Section 5, Subchapter A (d); or
- (2) Development, including a Single-family Residence that creates less than 10,000 square feet of Impervious Cover and less than one acre of land is Disturbed, provided that Erosion and Sedimentation Control is provided per Section 5, Subchapter A (d); or
- (3) Development of a Single-family Residence that creates more than 10,000 square feet of Impervious Cover and less than one acre of land is Disturbed provided that:
 - (a) Erosion and Sedimentation Control is provided per Section 5, Subchapter A (d); and
 - (b) The Site complies with the downstream buffer guidelines found in the LCRA Technical Manual.

- (4) Existing Development provided that Erosion and Sedimentation Control is provided per Section 5, Subchapter A (d); or
- (5) Redevelopment provided that the cumulative increase in Impervious Cover is less than 10,000 square feet and less than one acre of land is Disturbed, and that Erosion and Sedimentation Control is provided per Section 5, Subchapter A (d); or
- (6) Dredge and Fill activities that dredge more than 500 cubic yards or disturb more than 500 linear feet of shoreline provided that activities comply with LCRA Dredge/Fill Standards.

(c) Development Permit. A Development Permit is required for:

- (1) Development or Redevelopment that creates more than 10,000 square feet of Impervious Cover or Disturbs more than one (1) acre of land or is unable to satisfy the conditions found in Section 4, Subchapter A (a) or 4(b). Development or Redevelopment activity shall be subject to the performance standards found in Section 5 Subchapter A and all other requirements of this Ordinance.
- (2) Development or Redevelopment that is proposing to meet the Alternate Standards found in Section 5. A Development Permit issued under this subsection will be considered a Fast-Track Permit.

**SUMMARY OF REQUIREMENTS FOR DEVELOPMENT PROJECTS
As Designated with “X”**

| If Your Project is: | Notification Only No Permit Required | Permit | Pre Planning ¹ | WQ Volume ² | Alt Standards ³ | Buffer Zones ⁴ | Temp ESC ⁵ | LID ⁶ |
|---|--------------------------------------|-------------------------------------|------------------------------------|------------------------|----------------------------|---------------------------|--------------------------|------------------|
| Development <10,000 sq ft. Impervious Cover & < 1acre disturbance | X | | | | | | X | |
| SF Home >10,000 sq ft. Impervious Cover & < 1 acre disturbance | X | | | | | | X w/buffer guidelines | |
| SF/Commercial Development<15% gross Impervious Cover, CD ⁷ <20% Impervious Cover | | X Fast-Track Permit ⁸ | X SF > 20 acres, COMM > 3 acres | | X | X | X | X |
| SF Development >15% gross | | X | X Greater than 20 acres | X | | X | X | X |
| Commercial < 3 acres | | X Fast-Track Permit | | Optional | X | X | X | X |
| Commercial > 3 acres | | X | X | X | | X | X | X |

1. Pre-development planning – Meeting with LCRA and development team at concept plan stage - Section 5, Subchapter A (a)
2. Water quality volume – Runoff volume to be captured based on the one-year storm Section 5, Subchapter A (b)
3. Alternate Standards – Use of Vegetative Filter Strips, no storm drain, no curb and gutter and sheet flow should be used to achieve compliance in Section 5, Subchapter A (b)
4. Buffer Zones – Creek protection based on Section 5, Subchapter A (c)
5. Temporary Erosion and Sedimentation controls – Erosion control per TCEQ SWPPP and LCRA Technical Manual in Section 5, Subchapter A (d)
6. LID – Low impact development techniques to achieve compliance are available as an option to limit structural control use and/or size.
7. CD – Cluster Development
8. Fast Track Permit – Reduce Permit review time and fees

(d) BMP Maintenance Permit. A BMP Maintenance Permit shall be issued to the developer or his assignee upon completion of construction of the infrastructure and permanent BMP facilities required by the Development Permit and receipt of the engineer’s certification. In the event that the Landowner, maintenance association or Property Owner’s Association does not accept the assignment, the developer shall remain subject to the terms of the Development Permit or BMP Maintenance Permit, as applicable, until an assignment occurs or until the maintenance association, Property Owner’s Association, or Landowner accepts issuance of a BMP Maintenance Permit. A BMP Maintenance Permit fee for permanent BMPs shall be as described in the fee schedule approved by the Board.

(e) General Utility Permit. A General Utility Permit holder is not required to obtain a Development Permit for routine utility construction or maintenance if covered by the General Utility Permit. The General Utility Permit covers routine construction and maintenance/repair work without requiring a Permit for each separate project. A notice of intent, Erosion control plan and appropriate fees must be submitted to LCRA prior to commencing construction on each utility projects. If the utility project proposes Impervious Cover that is greater than what is described in Section 4(b), a Development Permit is required.

Utilities may operate construction Sites pursuant to this Ordinance and the LCRA Technical Manual. A Utility shall submit a notice of intent prior to commencing construction on any utility project. The Utility shall comply with the utility construction measures in the LCRA Technical Manual.

Activities which are authorized under a General Utility Permit include: Water and wastewater distribution facilities and associated appurtenances (manholes, valves, hydrants, pumps); liquid or gas distribution facilities and associated appurtenances; stormwater collection and distribution facilities and associated appurtenances; electrical distribution facilities; telecommunication lines and distribution facilities; and any other similar utility line or distribution facilities.

The General Utility Permittee is required to comply with any other applicable federal, state and local laws and regulations.

(f) Dredge and Fill Activities. Persons constructing stabilization projects on water front lots must comply with the following:

- (1) No reclamation of land including land lost to natural Erosion processes or flood events is allowed.
- (2) Dredge and Fill Activities are subject to the U.S. Army Corps of Engineers regulations for approval of Dredge and Fill activities along the Highland Lakes.
- (3) Dredge and Fill Activities are subject to the Dredge and Fill Standards located in the LCRA Technical Manual.
- (4) Dredge and Fill activities that dredge more than 500 cubic yards or disturb more than 500 linear feet of shoreline shall provide written notification per Section 4, Subchapter A (b).

Subchapter B – Quarry/Mine Activity

a) Exemptions. The following are exempt from the provisions of this Ordinance and are not required to file an application for or obtain a Permit pursuant to this Ordinance:

(1) **Quarry or Mine Exploration** by a Quarry/Mine Owner or Operator to obtain Aggregate samples for determining viability of a property as a Quarry or Mine. Materials obtained are not to be used for commercial sale. Quarry/Mine Exploration that Disturbs more than one (1) acre of land will need to consider the preparation of a Stormwater Pollution Prevention Plan per the TCEQ Construction Stormwater General Permit. No submittals are necessary to LCRA.

(2) **Quarry/Mine Acknowledgement.** A property that is owned or leased by a Quarry/Mine Owner or Operator and as evidenced by a deed, existing lease, or provides reasonable evidence of possession and use as of March 1, 2007 (effective date of Quarry and Mine ordinance amendments) and has an Active Quarry or Mine. To gain acknowledgement, a Quarry/Mine Owner or Operator will submit the above information to

LCRA depicting the Quarry/Mine Activity. LCRA will provide an acknowledgement letter certifying the quarry operation status.

- (i) Development, as defined in this Ordinance and as part of a Quarry/Mine shall be subject to the applicable provisions in this Ordinance, including Section 4, regarding Development Permits.
- (ii) Acknowledged Quarries and Mines are encouraged to contact LCRA to gain input in a voluntary advisory role on recommendations toward the protection of ground and surface water quality

b) Written Notification. Landowners or Land Users who conduct Quarry and Mine activities within the area subject to the jurisdiction of this Ordinance shall be allowed to conduct such activities **without obtaining a Permit** if the Quarry or Mine activities create less than 10,000 square feet of Impervious Cover and will Disturb less than five (5) acres of land, are located outside of a Buffer Zone, and provide Erosion and Sedimentation Control in accordance with Section 5, Subchapter B (d) and achieves Final Stabilization. Written notification to LCRA is required prior to commencing the activity. In the written notification, the Applicant shall demonstrate how the activity falls within the provisions of this subsection.

c) Quarry/Mine Certification. A property that is owned or leased by a Quarry/Mine Owner or Operator as evidenced by a deed, existing lease or provides reasonable evidence of possession and use as of March 1, 2007 (effective date of Quarry and Mine ordinance amendments), does not have an Active Quarry or Mine, and proposes Quarry or Mine activities that will create more than 10,000 square feet of impervious cover or will Disturb more than five (5) acres of land shall submit an application pursuant to Section 6 Subchapter B and be subject to the performance standards in Section 5 Subchapter B and all other requirements of this Ordinance excluding Section 6, Subchapter A. Development, as defined in this Ordinance, shall be subject to the applicable provisions of this Ordinance, including Section 4 Subchapter A regarding Development Permits.

d) Quarry/Mine Permit A property that is owned or leased by a Quarry/Mine Owner or Operator as evidenced by a lease or deed and is leased or acquired after March 1, 2007 (effective date of Quarry and Mine ordinance amendments) and proposes Quarry or Mine activities that will create more than 10,000 square feet of impervious cover or will Disturb more than five (5) acres of land and does not have an Active Quarry or Mine shall submit an application pursuant to Section 6 Subchapter A and be subject to performance standards in Section 5 Subchapter B and all other requirements of this Ordinance excluding Section 5 Subchapter A. Development activities within the boundaries of a Quarry or Mine shall be regulated pursuant to the requirements in Section 4, Subchapter A of this Ordinance. However, any Development Permit provisions and requirements shall be combined with the provisions and conditions of the Quarry/Mine Permit so as to only require a Quarry or Mine to file a single, combined, Development and Quarry/Mine Permit Application.

SECTION 5. WATER QUALITY PERFORMANCE STANDARDS

Subchapter A - DEVELOPMENT ACTIVITY

- (a) **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 land plan, slopes, buffers, and water quality management practices, and may include a Site investigation. For Commercial Development greater than three acres in area and for all other Single-family Development greater than 20 acres in area, a Development Permit application can only be submitted after the completion of this task. Additional guidance is found in the LCRA Technical Manual. All Developments required to obtain a Development Permit shall achieve the following performance standards in Section 5, Subchapter A (b)-(e):
- (b) **Water Quality Management.**
- (1) **Water Quality Volume.** For the protection of water quality and drainage ways from channel Erosion and stormwater runoff pollution, each Development project subject to these performance standards shall provide water quality volume in approved BMPs found in the LCRA Technical Manual. The required water quality volume is based on the one-year storm runoff volume as defined in the LCRA Technical Manual. In addition, Development projects can use Low Impact Development methodologies as identified in the LCRA Technical Manual to reduce or avoid stormwater storage volume requirements.
- (2) **Alternate Standards.** Single-family Development that meets the criteria in (i) or Commercial Development that meets the criteria in (ii) need not comply with subsection 5(b)(1). Compliance with this subsection will result in the reduction in Permit fees, potentially reduced engineering fees, Permit issuance within 30 calendar days from declaration of administrative completeness if all aspects of this section are met, with no requirement for a BMP Maintenance Permit and the associated fees.
- (i) Development
- (a) The gross Impervious Cover is 15 percent or less and the cluster development sections have 20 percent or less gross Impervious Cover.
- (b) Street and drainage network is designed to include the use of open-roadway sections, ribbon curb and maintenance of sheet flow.
- (c) Impervious Cover credit by use of porous pavement, rainwater harvesting, native landscaping and other methods can be used to gain compliance as defined in the LCRA Technical Manual.

(ii) Commercial Development.

(a) Projects less than three acres in area can achieve compliance with this section through the use of vegetated filter strips and flow spreading methodologies as identified in the LCRA Technical Manual.

(b) Impervious Cover credit by use of porous pavement, rainwater harvesting, native landscaping and other methods can be used to gain compliance as defined in the LCRA Technical Manual.

(c) **Buffer Zones.** Buffer Zones protect waterways and aquatic resources 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. The number of crossings through Buffer Zones should be minimized according to the guidance located in the LCRA Technical Manual. No stormwater treatment facilities, golf courses, septic systems or wastewater irrigation shall be located in the Buffer Zone. Stormwater discharge from the Development shall be dispersed into overland patterns before reaching the Buffer Zone.

(1) **Buffer Zones in Burnet and Llano Counties Requirements:** A Buffer Zone shall be established at a width of 25 feet from the top of the channel bank on both sides of the Creek. This applies to Creeks or swales draining more than five acres of area, excluding roadside swales.

(2) **Buffer Zones in Travis County – Two Options:**

(i) **Option 1: Buffer Zones**

- (a) Creeks or swales draining less than 40 acres but more than five acres, excluding roadside swales, shall have a minimum buffer width of 25 feet from the centerline of the Creek or swale.
- (b) Creeks or swales draining less than 128 acres but more than 40 acres shall have a minimum buffer width of 75 feet from the centerline of the Creek or swale.
- (c) Creeks draining less than 320 acres but more than 128 acres shall have a minimum buffer width of 100 feet from the centerline of the Creek or swale.
- (d) Creeks draining less than 640 acres but more than 320 acres shall have a minimum buffer width of 200 feet from the centerline of the Creek or swale.
- (e) Creeks draining 640 acres or greater shall have a minimum buffer width of 300 feet from the centerline of the Creek or swale.

- (ii) **Option 2: Floodplain Buffer Zone.** For Creeks or rivers draining less than 40 square miles but more than five acres, excluding road side swales, the Buffer Zone shall extend a minimum of 25 feet from the 100-year floodplain boundary paralleling each side of the Creek or swale. The 100-year floodplain shall be based on the fully developed conditions as approved by LCRA.

For Creeks or rivers draining more than 40 square miles, the Buffer Zone shall be considered equal to the 100-year floodplain as designated by Federal Emergency Management Agency or by an engineered floodplain study approved by LCRA.

Management of the Buffer Zone through LCRA's Creekside Conservation Program and other programs is encouraged to develop healthy and dense buffer areas that improve water quality protection and groundwater recharge. Refer to the LCRA Technical Manual for guidance on riparian corridor management.

- (d) **Erosion and Sedimentation Control.** Erosion and Sedimentation shall be controlled throughout the Development process in accordance with the LCRA Technical Manual.
- (1) Development of and adherence to a TCEQ SWPPP shall be considered to meet the requirement for Erosion and Sedimentation control. The Permittee shall make the SWPPP inspection records and reports available to LCRA upon request.
 - (2) Site disturbance must be phased to limit soil Erosion, and Final Stabilization shall be accomplished with each phase.
 - (3) Prior to the commencement of construction, LCRA will provide training materials to the contractor including: preservation of existing Vegetation (minimize disturbance), construction phasing, installation and maintenance of temporary Erosion controls, re-seeding, and Buffer Zone protection. LCRA will meet with the contractor and review the training materials and inspect the temporary Erosion controls at the time construction begins.
- (e) **Water Quality Education.** A recipient of a Development Permit shall implement a water quality education program using LCRA and/or other LCRA approved water quality education materials that focus on water quality protection.
- (f) **Monitoring and Reporting.** If a project proposes Innovative BMPs, LCRA may require, as a condition of issuing a Permit, water quality performance monitoring of certain BMPs. Water quality monitoring shall last a period of at least three years. The cost of monitoring will be borne by the Applicant. During the monitoring period, the Applicant shall submit annual reports showing the results of the monitoring efforts. The pollutant parameters to be monitored shall be determined at the time of Permit issuance. The monitoring and reporting must be satisfactory prior to issuance of the BMP Maintenance Permit. An irrevocable letter of credit equal in value to the permanent BMPs must be posted prior to the issuance of this Permit and survive the monitoring period.

Subchapter B QUARRY AND MINE ACTIVITY

(a) Pre-Quarry/Mine Planning. (1) A concept plan meeting shall occur for all Quarry/Mine Projects that are subject to obtaining a Certification or Permit per Section 4, Subchapter B. The meeting should focus on potential Disturbed area, slopes, buffers, water diversions, water quality management practices, and may include a Site investigation. No submittals are required at this meeting. This meeting can aid the applicant in determining ordinance requirements and conditions prior to extensive effort in preparing a water quality protection plan. A Quarry/Mine Permit and Quarry/Mine Permit by Rule application can only be submitted after the completion of this task. Additional guidance for preparing an application is found in the LCRA Technical Manual.

(2) If applicable, the owner/applicant should contact the local Groundwater Conservation District of the plan to initiate a quarry facility.

(3) All Mines and Quarries required to obtain a Quarry/Mine Certification or Permit shall achieve the following performance standards in Section 5, Subchapter B (b)-(f):

(b) Water Quality Management.

(1) Project Area not Discharging to Pit:

a. For the protection of water quality, Mine and Quarry projects subject to these performance standards shall provide water quality volume in approved BMPs found in the LCRA Technical Manual.

b. The required water quality volume is based on the one-year (3-hour) storm runoff volume as defined in the LCRA Technical Manual. This applies to parking lots, drives, buildings, etc. (development) that are similar to typical land development projects. In addition, mine and quarry projects can use Low Impact Development methodologies as identified in the LCRA Technical Manual to reduce or avoid stormwater storage volume requirements. A BMP Maintenance Plan shall be prepared for these facilities.

c. For areas of exposed material stockpiles and non-stabilized active areas not draining to the Pit, the Quarry/Mine project shall provide water quality volume in approved BMPs found in the LCRA Technical Manual. The required water quality volume is based on the 10-year (24-hour) storm runoff volume as defined in the LCRA Technical Manual.

(2) Project Area Discharging to the Pit

a. An applicant for a Quarry/Mine Permit must demonstrate that a Pit, intended to be used as a permanent BMP, is of sufficient size to contain the runoff volume of the 10-year (24-hour) storm without discharge during such a rain event.

b. The runoff volume is derived from contributing drainage area to the Excavation.

c. The applicant will utilize information developed in Section 5, Subchapter B (b)(4), (Submittals to LCRA) to limit sediment discharge into karst features.

d. Recharge features with a surface opening greater than one square foot in area that are located on the floor of the quarry or mine should be sealed or protected in order to prevent sediment from infiltrating with stormwater runoff.

(3) Other Local, State, and Federal Regulations

a. The Mine or Quarry owner, or the owner's authorized agent, shall provide LCRA with copies of, or access to all plans, reports, and approvals from other regulatory agencies, including, but not limited to, the following:

EPA – NPDES permit, Spill Prevention Control, Containment, and Countermeasures
MSHA/OSHA- Hazard Communications Plan

US Army Corps of Engineers – 404 permits and/or letters of permission if necessary

TCEQ – TPDES Industrial Sector Permit, Multi-Sector General Stormwater Permit and
Stormwater Pollution Prevention Plan

TPWD – Marl, Sand, and Gravel Mining in Public Waters of the State

b. If applicable, the Quarry/Mine Owner or Operator shall provide documentation of compliance with a Groundwater Conservation District Requirements.

(4) Submittals to LCRA

(a) LCRA may require an applicant to submit certain information dependent upon the site conditions, planned Quarry or Mine activities, size of Quarry or Mine, and depth of Excavation. The necessary submittals will be determined in the Pre-quarry/mine planning meeting found in Section 5, Subchapter B, (a) of this Ordinance. LCRA will make a determination based upon sound science and professional standards for the appropriate submittals determined after its Pre-quarry/mine planning discussion with the applicant and the project's potential impacts on water quality. The following submittals may be required:

1. A **hydrologic report** prepared by a licensed professional engineer in Texas defining impoundments, streams, floodplains, and proposed drainage diversions including water quality BMPs within the proposed mine or quarry property boundary.

2. A **hydrogeologic report** prepared by a licensed professional geologist in Texas containing the aquifer identification, aquifer characteristics, drastic classification, recharge zones, any karst features and depth to water on the site, well inventory and/or springs within one mile of proposed mine or quarry property boundary and identify measures to protect groundwater recharge. The applicant will demonstrate compliance with setbacks from recharge features and public water supply wells according to the TCEQ source water protection program and if applicable, Groundwater Conservation District requirements.

3. A **mine or quarry plan** showing proposed mine or quarry boundaries, property limits, mining limits, approximate mining depths, drainage plan, creek crossings, diversions, a list of BMPs proposed for mined out areas as temporary sedimentation basins, and the type of mine or quarry proposed.

5. A **surface water monitoring plan** to supplement the TCEQ Multi-Sector General Stormwater Permit requirements. The owner/operator can use the TCEQ Multi Sector General Stormwater Permit as the plan, but shall monitor four (4) events per year and provide data in the annual report. Parameters tested in the monitoring plan may include but are not limited to Total Suspended Sediment, pH, oil and grease, and Total Organic Carbon.

6. A **general reclamation guidance plan** on potential final measures to protect water quality and maintain ordinance compliance once the Mining and Quarrying activities are complete. The plan may include guidance on vegetative cover within one-year of completion of excavation to restore areas to conditions that existed prior to the Excavation except on quarry walls and flooded areas, and reclamation of all structures, haul roads, and storage areas within one-year of completion of Excavation. In order to ensure that uncontaminated material is used as backfill, the guidance plan should include information from TCEQ's Rule Interpretation Summary Form 330-4.001.

(b) Once a Mine or Quarry operation is complete or has been abandoned, any subsequent Development will be subject to the conditions and terms of the Highland Lakes Watershed Ordinance, as amended, to protect water quality.

(c) The applicant will utilize the reports/plans listed in subsection Section 5, Subchapter B, subsection (b) above to design and utilize the appropriate water quality protection measures found in the LCRA Technical Manual to protect surface and groundwater quality.

(c) **Buffer Zones.** Buffer Zones protect waterways and aquatic resources from the short and long term impacts of construction activities. Buffer Zones shall remain free of construction, or other alterations except for utility and roadway crossings. The number of crossings through Buffer Zones should be minimized according to the guidance located in the LCRA Technical Manual. No stormwater treatment facilities or wastewater irrigation shall be located in the Buffer Zone.

(1) For Creeks or rivers draining more than 320 acres, the Buffer zone shall be a minimum width of twenty-five (25) feet from the top of the channel bank (as determined in hydrologic report) on each side of the creek/river. However, if the floodway boundary is beyond twenty five (25) feet from the top of the channel bank, the buffer zone shall be established at the floodway limit. The floodway may be determined from Federal Emergency Management Agency information or by an engineering study that is signed and sealed by a registered, licensed engineer. If the floodway is determined by an engineering study, the floodway shall be based on the fully developed conditions for the 100-year flood as approved by LCRA.

(2) Management of the Buffer Zone through LCRA's Creekside Conservation Program and other programs is encouraged to develop healthy and dense buffer areas that improve water quality protection and groundwater recharge. Refer to the LCRA Technical Manual for guidance on riparian corridor management.

(3) Sand and gravel operations obtaining a Texas Parks and Wildlife Department Sand, Gravel, Shell, and Marl or US Army Corps of Engineers authorization may be eligible for a variance from the buffer zone requirements found in this ordinance.

(d) Erosion and Sedimentation Control. Erosion and Sedimentation shall be controlled throughout the Quarry and Mine process in accordance with the EPA and TPDES Stormwater Pollution Prevention Plan and the LCRA Technical Manual.

(1) Development of and adherence to a SWPPP shall be considered to meet the requirement for Erosion and Sedimentation control. The Permittee shall make the SWPPP inspection records and reports available to LCRA upon request.

(2) Prior to the commencement of Quarry and Mine activities, LCRA will provide training materials to the owner/contractor. LCRA will meet with the owner/contractor and review the training materials and inspect the temporary Erosion controls at the time Quarry and Mine Activities begin.

(e) Groundwater Quality Protection and Monitoring.

(1) **Proposed Plan.** Based on site conditions, proposed activity, hydrogeologic report, and other submittals pursuant to Section 5, Subchapter B, subsection (b)(4), Submittals to LCRA, LCRA may require monitoring wells for water levels and water quality determination including background and down-gradient conditions. The sample frequency will be proposed by the applicant and approved by LCRA during the permit application process, based on professional practices regulated by the Texas Board of Professional Geoscientists and/or the Texas Board of Professional Engineers. A groundwater sampling plan will be prepared and parameters may include but not limited to water level or flow, pH, nitrate-nitrogen, Total Suspended Sediment, Volatile Organic Carbon, Total Organic Carbon and Total Dissolved Solids. If a groundwater district has jurisdiction, the sampling plan shall be designed to comply with the district guidelines.

a. **Background Conditions.** Background conditions may be established by adoption of historical data at existing wells or springs or by data collected by the applicant during operations, and/or by installation of monitoring wells and sampling of wells and springs up-gradient from the mine or quarry. Professional standards will be followed such as those set out in the "Handbook of Suggested Practices for the Design and Installation of Ground-Water Monitoring Wells" (EPA, 1991.)

b. **Down-gradient Conditions.** Down-gradient conditions may be monitored at wells and/or springs that could potentially be affected by quarry operations. New or existing wells may be used with well screens set at the appropriate interval recommended in the applicants' hydrogeologic report. Spring flow may be monitored at the spring outlet or by measurements and samples taken upstream and downstream of the spring.

Monitoring sites should be selected at locations that would isolate the effects of mining from other activities, if possible.

(2) **Design.** The data from Section 5, Subchapter B will be used to determine appropriate BMPs to protect groundwater quality, including structural and non-structural best management practices used in pits which collect runoff at the site.

(3) **Operation Phase, Mitigation.** If sampling, required pursuant to Section 5, Subchapter B, subsection (e)(1), verifies a contamination or potential contamination of ground water quality as a result of the Quarry/Mine activity, the Owner/Operator shall prepare a mitigation plan for LCRA approval within 30 days of notification from LCRA. Implementation of the mitigation plan shall occur within 60 days of LCRA's approval of the plan.

(4) **Reclamation/Closure.** Once the Quarry or Mine operation is properly closed/reclaimed, the monitoring plan established pursuant to Section 5, Subchapter B, subsection (e) can be terminated with proper closure and protection of all monitoring wells per the Texas Department of Licensing and Regulations Water Well Drillers Rules (Water Well Drillers located in the Texas Administrative Code and the statutory requirements of Chapter 1901, Texas Occupations Code, Title 12. Practices and Trades Related to Water, Health, and Safety).

(f) **Reporting.** All records required by the LCRA Quarry/Mine Permit and other agencies shall be kept onsite while the facility is in operation. If monitoring is performed for LCRA or other agencies, annual monitoring reports will be submitted to LCRA. LCRA may perform site reviews on a quarterly basis and provide reports to the quarry operator/owner within five (5) days of review. LCRA will meet annually with the quarry operator/owner to obtain reports and may include potential permitting review. This meeting may coincide with the annual inspection of permanent water quality BMPs.

SECTION 6. APPLICATION PROCESSING

Subchapter A – Development Permit and Quarry/Mine Permit

(a) Development Permit and Quarry/Mine Permit Process

(1) **Pre-Development and Quarry/Mine Planning.** A pre-development and Quarry/Mine/concept plan meeting shall occur for all Single-family Development greater than 20 acres in area, all Commercial Development greater than three (3) acres in area, and all Quarry/Mine projects subject to receiving a Quarry/Mine Permit. For these projects, a Development Permit or Quarry/Mine Permit can only be submitted after the completion of this task. Additional guidance is found in the LCRA Technical Manual.

(2) **Acceptance of Application and Commencement of Administrative Review.** An application for Development Permit shall be considered to have been filed on the date that it is stamped received by LCRA staff at the LCRA General Office Complex on Lake Austin Boulevard in Austin, Texas. LCRA staff shall not accept for filing any Application that has not been signed and accompanied by the appropriate Application fee or before a pre-development meeting has taken place, if required.

- (3) **Administratively Incomplete Applications.** Upon receipt of an application, LCRA shall conduct an administrative review of the application to determine if the required information for an application has been submitted. An administrative review is not a technical or substantive review of the information submitted in an application. If the application is determined to be administratively incomplete, LCRA staff shall notify the Applicant in writing within 10 calendar days after the date the Application is received. The Applicant shall submit additional information within 35 calendar days after the date of the letter notifying the Applicant of the deficiencies. If the Applicant does not submit the required additional information within 35 calendar days, the Application may be returned to the Applicant and the Application is considered withdrawn. The application fees will be refunded in accordance with the fee schedule.
- (4) **Preparation of Permit Applications.** Landowners or Land Users who must obtain a Development or Quarry/Mine Permit shall prepare the Permit application in accordance with the LCRA Technical Manual, which is incorporated herein by reference as if set forth in full and which may be amended from time to time in accordance with Section 13(b) of this Ordinance.
- (5) **Technical Review.** After LCRA determines an application to be administratively complete, LCRA shall commence a technical review of the Permit application for a period of time not to exceed 30 calendar days. The LCRA shall promptly notify the Applicant of any additional information that may be necessary for a complete staff review. If LCRA does not meet this timeframe, the application fees will be refunded in accordance with the fee schedule.
- (6) **Subsequent Reviews.** If more information is needed to complete the technical review, an Applicant shall have 30 calendar days to submit additional information or revise the application from the date of receipt of an information request letter from LCRA. If the Applicant provides the additional information within the 30 calendar day period, the technical review shall be extended for no more than 15 calendar days. If the Applicant does not provide the additional information within the 30 calendar day period, the application is considered withdrawn and LCRA may return the application and all or part of the fees to the Applicant. The Applicant must resubmit a new application with the appropriate fees.
- (7) **Request for Extension of Time to Provide Requested Information.** An Applicant may request an extension of time to provide the information requested by staff during the administrative or technical review. Requests for extensions shall be in writing and shall explain in detail the need for additional time. Such requests shall be approved in writing by LCRA, which approval shall not be unreasonably withheld except that in no event shall the cumulative amount of time granted to an Applicant exceed six months from the date that the application for a Permit was filed. If an extension expires without action, the Application is considered withdrawn and the Applicant must resubmit a new Application with the appropriate fees.
- (8) **Application Fees.** The application fees shall be as described in the fee schedule approved by the Board. The fee schedule may be amended from time to time by the

Board in accordance with Section 13(b) of this Ordinance. The fee schedule is located in the LCRA Technical Manual.

- (9) **Duration.** A Development Permit, unless terminated pursuant to Section 6(a) (10) or Section 9(c), shall be valid for three years. A Permittee can request a one-time Permit extension in writing for a period not to exceed an additional 18 months. A Quarry/Mine Permit shall be in effect for the duration of the Quarry/Mine operations. Operations covered by a Quarry/Mine Permit shall be subject to inspection and reporting requirements in Section 5, Subchapter B, Quarry and Mine Projects. An annual report will be prepared each year by a Quarry/Mine operation subject to a Quarry/Mine Permit.
- (10) **Termination.** A Development Permit or Quarry/Mine Permit shall automatically terminate if the Permittee has not commenced Development or Quarry/Mine activities within three years from the date of issuance of the Permit. Pursuant to Section 9(c), a Development or Quarry/Mine Permit may be terminated by revocation upon violation of a condition to the Permit. Upon termination of a Permit, LCRA may call on the Permittee's irrevocable letter of credit or other financial security in order to provide permanent stabilization of the Site.
- (11) **Irrevocable Letter of Credit.** Approval of a Permit application is contingent upon the execution of an irrevocable letter of credit acceptable to LCRA in the amount specified in the Permit which provides for the construction of temporary Erosion and Sedimentation controls and Site stabilization (not reclamation), in accordance with the Permit and any other provision of this Ordinance. The amount of the 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 irrevocable letter of credit shall be released after the final inspection/concurrence letter from the engineer and BMP Maintenance Permit has been approved by LCRA. Cash, checks or money order in lieu of a letter of credit is acceptable. For Quarry/Mine operations, the letter of credit can be released after the Excavation can retain the runoff from the 10-year (24-hour) storm from the contributing drainage area and the permanent BMPs for areas not draining to the quarry are complete and stabilized.
- (12) **Notice of the Application for Development and Quarry/Mine Permits.** During the technical review period described in subsection (5) of this Section:
- (i) **Posted and Published Notice.** The Applicant shall post notice of the application on the Site of the proposed Development or Quarry/Mine in a location where it can be easily viewed by the public with a sign provided by LCRA. The Applicant shall also publish notice in a newspaper of general circulation in the area where the Site is located. The notice shall state the name and mailing address of the Applicant; that LCRA has determined that the application is administratively complete; the location of the Site; the type of Permit, approval or authorization the Applicant is seeking; project description; list variances being requested, if any; and that comments on the application may be made by any interested Person. Applicant shall bear the cost of publishing the required notice, and provide LCRA staff a copy of the notice with a copy of the Publisher's affidavit. Applicants seeking a quarry permit shall contact via mail officials of the

nearby municipalities, county, and if applicable, groundwater conservation district. Time frames for public notice requirements are provided in the LCRA Technical Manual.

- (ii) **Mailed Notice.** During the technical review period described in subsection (5) of this Section the Applicant shall mail notice, by first class mail, of the application to Adjacent Property Owners to the Site. The names of the Adjacent Property Owners shall be determined by the Applicant based upon records from the appropriate County Tax Appraisal District submitted as part of a complete application. The notice shall state the name and address of the Applicant; that LCRA has determined that the application is administratively complete; the location of the Site; the type of Permit, approval or authorization the Applicant is seeking; project description; list variances being requested, if any; and that comments on the application may be made by any interested Person. The Applicant shall bear the cost of mailing the required notices. The Applicant will provide the Adjacent Property Owner contact information to LCRA as part of the application package. Time frames for mailed notice requirements are provided in the LCRA Technical Manual.

- (13) **Comments.** Written comments concerning the application may be made by any Person.

- (i) For Development Permit applications, such comments will be accepted by LCRA for 15 calendar days after the date of publication of notice.
- (ii) For Quarry/Mine Permit applications, such comments will be accepted for 30 days after the date of publication of notice.
- (iii) All Persons who provided written comments will receive a copy of the application, updates, and permit decision subject to the Public Information Act.

(14) **Public Meetings for Development and Quarry/Mine Permits.**

- (i) **Public Meetings.** After expiration of the public comment period and upon the request of the Applicant or any other Affected Person, LCRA may hold a formal public meeting to consider the application. The request must be made in writing and received by LCRA within 10 calendar days after the close of the public comment period.
 - (a) the name, mailing address, and phone number of the Person making the request;
 - (b) a brief description of the interest of the Person making the request, or of Persons represented by the Person making the request; and

- (c) identification of the specific performance standard(s) that the Development will or will not meet.
 - (ii) If LCRA determines that the request for a public meeting is in compliance with this Section, or that a public meeting will serve the public interest, the LCRA staff shall hold a public meeting. All Persons who have notified LCRA in writing of their interest in the application shall be advised of the date, time and place of the public meeting and invited to attend.
 - (iii) When making a Permit decision, staff will consider all comments received, both written comments and oral comments made during the public meeting, when making a Permit decision. The application review process will continue and staff will issue a Permit in accordance with the Ordinance standards or deny the Permit application. Final resolution of a protested Permit application will be made pursuant to Section 11, Appeals of Permit Decisions.
- (b) **Master Plan/Phased Development Procedures.** When a Phased Development is proposed, the Permit application shall be submitted and processed in accordance with these procedures.
- (1) **Submittal of Master Plan Application.** Submittal and approval of a Master Plan shall occur prior to approval of a Development Permit. Applications submitted for projects that are intended to be developed in phases shall be approved in a two-step process. Upon approval of the Master Plan, the Applicant shall complete a Development Permit application for the first phase and each subsequent phase of the project. A Development Permit shall be issued for each phase of the Development. Landowners or Land Users whose Phased Development requires issuance of multiple Development Permits shall prepare an application for Phased Development in accordance with the LCRA Technical Manual, which is incorporated herein by reference as if set forth in full and which may be amended from time to time in accordance with Section 13(b) of this Ordinance.
 - (i) The application shall include a Master Plan of the entire project for review by LCRA. The Master Plan shall demonstrate that the project can be developed in compliance with the applicable provisions of the Ordinance; and
 - (ii) The application shall include all other information deemed necessary by LCRA to demonstrate compliance with the Ordinance.
 - (2) **Technical Review.** After the acceptance of the application by LCRA, LCRA shall commence a technical review of the application for a period of time not to exceed 30 calendar days. The Applicant shall be promptly notified of any additional information that may be necessary for a complete staff review. If LCRA does not meet this timeframe, the application fees will be refunded in accordance with the fee schedule.
 - (3) **Subsequent Reviews.** If more information is needed to complete the technical review, the Applicant shall have 30 calendar days to submit additional information or revise the application from the date of receipt of an information request letter from LCRA. If the

Applicant provides the information within the 30 calendar-day period, the technical review shall be extended no more than 15 calendar days. If the Applicant does not provide the additional information within the 30 calendar-day period, the application is considered withdrawn and LCRA may return the application and all or part of the fees to the Applicant. The Applicant must submit a new application with the appropriate fees.

(4) **Master Plan Approval.** Upon approval of the Master Plan, the Applicant shall be entitled to develop the project in accordance with the standards in effect on the date of LCRA's approval and in accordance with applicable state law. However, LCRA's Technical Manual may be revised from time to time, and revisions may reflect changes or alterations in certain BMPs relative to their ability to achieve the standard. Approval of a Master Plan does not exempt a Development from compliance with revisions to the LCRA Technical Manual.

(5) **Duration.**

- (i) The Applicant shall have one year from the date of approval of the Master Plan to submit a completed Permit application for the first phase of the project, or the approval of the Master Plan shall become null and void.
- (ii) Should the Development Permit for the first phase of the Development of the project be terminated due to lack of activity as provided in Section 6(a)(10) or if termination occurs pursuant to Section 9(c), the Master Plan approval shall become null and void.
- (iii) The Applicant shall have five years from the date of issuance of the BMP Maintenance Permit in accordance with Section 4(d), or the completion of construction, whichever occurs first, to submit a completed application for each subsequent phase or phases, or approval of the Master Plan relative to such phases shall become null and void.
- (iv) Should a Development Permit for subsequent phases of Development of the project be terminated due to lack of activity provided in Section 6(a)(10), or if termination occurs pursuant to Section 9(c), the Master Plan approval relative to that phase or phases shall become null and void.

(6) **Notice of the Application for Master Plan.** Notice of the application and the Master Plan shall be posted, published and mailed in accordance with the applicable provisions of Section 6(a)(12).

(7) **Comments and Public Meetings.** Written comments shall be received and public meetings may be conducted in accordance with the applicable provisions of Section 6(a)(13) and 6(a)(14)

(8) Notice of Application Completion after Approval of Master Plan.

- (i) Upon approval of the Master Plan and completion of the application for each phase, notice of the application shall be posted, published and mailed in accordance with Sections 6(a)(12);
- (ii) Upon completion of the Development Permit application for subsequent phases, notice of the application shall be posted, published and mailed in accordance with the provisions of Section 6(a)(12).

(c) Permit Issuance. LCRA staff will consider all public comments and either issue a Development Permit or Quarry/Mine Permit after the Applicant has demonstrated compliance with the requirements of this Ordinance or deny a Permit application if the Applicant is unable to demonstrate compliance with the requirements of this Ordinance.

(d) Permit Amendment. Modifications to an approved Master Plan, Development Permit, Quarry/Mine Permit, and/or a BMP Maintenance Permit shall require an amendment. Applications for amendments shall be made and processed in accordance with the Permit application requirements of this Ordinance and the LCRA Technical Manual regarding Permit applications. The application for amendment shall clearly identify the items sought to be amended and the reasons therefore. No Permit Amendment is required for minor field adjustments of temporary Erosion and Sedimentation controls.

A modification to an approved Master Plan shall be required if there is a material change in land use or an increase in density or Impervious Cover. Modifications to an approved Master Plan shall be processed in accordance with the performance standards in effect on the date of the application for the area of phase covered by such modification. Modifications to an approved Master Plan, if granted, shall be effective upon the approval of the requested modification by LCRA staff.

Subchapter B – Quarry/Mine Certification

(a) Quarry/Mine-Certification Processing

(1) Pre-Quarry/Mine Planning. A pre-quarry/mine planning meeting shall occur for all Quarry and Mine projects subject to receiving a Quarry/Mine Certification. For these projects, a Quarry/Mine Certification application can only be submitted after the completion of this task.

(2) Preparation of Application. Quarry and Mine Owners or Operators who must obtain a Quarry/Mine Certification shall prepare the Permit application in accordance with Section 5 Subchapter B and the LCRA Technical Manual, which is incorporated herein by reference as if set forth in full and which may be amended from time to time in accordance with Section 13(b) of this Ordinance.

(3) Application. An application for a Quarry/Mine Certification shall be considered to have been filed on the date that it is stamped received by LCRA staff at the LCRA General Office Complex on Lake Austin Boulevard in Austin, Texas. LCRA staff shall not accept

for filing any application that has not been signed and accompanied by the appropriate Permit fee and Irrevocable Letter of Credit or before a pre-quarry/mine planning meeting has taken place. Notice per Section 6 Subchapter B (4) shall be posted, published, and mailed on the date of the application submittal.

- (4) **Notice of Quarry/Mine Certification.** At the time of application submittal, the Applicant shall post notice of the application on the Site of the proposed Quarry/Mine in a location where it can be easily viewed by the public with a sign provided by LCRA. The Applicant shall also publish notice in a newspaper of general circulation in the area where the Site is located. In addition, the Applicant shall mail notice, by first class mail, of the application to Adjacent Property Owners to the Site. The names of the Adjacent Property Owners shall be determined by the Applicant based upon records from the appropriate County Tax Appraisal District submitted as part of a complete application. The notice posted in the paper and mailed to adjacent property owners shall state the name and mailing address of the Applicant; the location of the Site; the type of Permit, approval or authorization the Applicant is seeking; project description; and list variances being requested. Applicant shall bear the cost of publishing the required notice, and provide LCRA staff a copy of the published notice with a copy of the publisher's affidavit. Applicants shall also contact via mail officials of the nearby municipalities, county, and if applicable, groundwater conservation district.
- (5) **Application Review.** Upon receipt of an application, LCRA shall conduct an administrative and technical review of the application to determine if the required information has been submitted and is technically correct. If the application is determined to be incomplete, LCRA staff shall notify the Applicant in writing within 15 calendar days of LCRA's receipt of the application. The Applicant shall submit additional information within 30 calendar days after the date of the letter notifying the Applicant of the deficiencies. If the Applicant does not submit the required additional information within 30 calendar days, the application may be returned to the Applicant and is considered withdrawn. The application fees will be refunded in accordance with the fee schedule.
- (6) **Technical Review.** After LCRA determines an application to be administratively and technically complete, LCRA shall commence a technical review of the Notification for a period of time not to exceed 15 calendar days. The LCRA shall promptly notify the Applicant of any additional information that may be necessary for a complete staff review. If LCRA does not meet this timeframe the application fees will be refunded in accordance with the fee schedule.
- (7) **Subsequent Reviews.** If more information is needed to complete the technical review, an Applicant shall have 30 calendar days to submit additional information or revise the application from the date of receipt of an information request letter from LCRA. If the Applicant provides the additional information within the 30 calendar day period, the technical review shall be extended for no more than 15 calendar days. If the Applicant does not provide the additional information within the 30 calendar day period, the application is considered withdrawn and LCRA may return the application and all or part of the fees to the Applicant. The Applicant must resubmit a new application with the appropriate fees.

(8) **Comments.** Written comments concerning the application may be made by any Person. Such comments will be accepted for 30 days after the date of publication of notice. All Persons who provided written comments will receive a copy of the application, updates, and permit decision subject to the Public Information Act.

(9) **Certification Decision.**

(i) Upon satisfactory completion of the technical review per the above procedures and satisfactory consideration of written comments, LCRA staff will issue a Quarry/Mine Certification.

(ii) If the Applicant is unable to demonstrate compliance with the requirements of Section 5 Subchapter B of this Ordinance, LCRA staff will deny a Quarry/Mine Certification.

(iii) LCRA shall notify all Persons who submitted written comments with notice of Quarry/Mine Certification decision and the opportunity to Appeal per Section 11 of this Ordinance.

(iv) Upon receipt of Quarry/Mine Certification, permittee is to notify LCRA at least two (2) calendar days prior to commencing activities.

(10) **Duration.** A Quarry/Mine Certification, unless terminated pursuant to Section 6(a)(10) or Section 9(c), shall be in effect for the duration of the Quarry or Mine operations. Operations covered by a permit by rule shall be subject to inspection and reporting requirements in Section 5, Subchapter B. An annual report will be prepared each year by a Quarry and Mine operation subject to a Quarry/Mine Certification.

(11) **Termination.** A Quarry/Mine Certification shall automatically terminate if the Permittee has not commenced Quarry/Mine activities within three years from the date of issuance of the Permit. Pursuant to Section 9(c), a Quarry/Mine Certification may be terminated by revocation upon violation of a condition to the Permit. Upon termination of a Permit, LCRA may call on the Permittee's irrevocable letter of credit or other financial security in order to provide permanent stabilization of the Site.

(12) **Application Fees.** The application fees shall be as described in the fee schedule approved by the Board. The fee schedule may be amended from time to time by the Board in accordance with Section 13(b) of this Ordinance. The fee schedule is located in the LCRA Technical Manual.

(13) **Irrevocable Letter of Credit.** Approval of a Quarry/Mine Certification is contingent upon the execution of an irrevocable letter of credit acceptable to LCRA in the amount which provides for the construction of temporary Erosion and Sedimentation controls and Site stabilization (not reclamation), in accordance with the Quarry/Mine Certification and any other provision of this Ordinance. The amount of the irrevocable letter of credit shall not be less than 100 percent of the cost as estimated by the professional engineer who seals the Quarry/Mine Certification application. Cash, checks or money order in

lieu of a letter of credit is acceptable. For Quarry/Mine operations, the letter of credit can be released after the Excavation can retain the runoff from the 10-year (24-hour) storm from the contributing drainage area and the permanent BMPs for areas not draining to the quarry are complete and stabilized.

(14) Certification Amendment. Modifications to an approved Quarry/Mine Certification shall require an amendment. Applications for amendments shall be made and processed in accordance with the Permit application requirements of this Ordinance and the LCRA Technical Manual regarding Permit applications. The application for amendment shall clearly identify the items sought to be amended and the reasons therefore. No Permit Amendment is required for minor field adjustments of temporary Erosion and Sedimentation controls.

SECTION 7. PERMITS

(a) Permit Terms and Conditions. A Permit may contain at a minimum provisions requiring the Permittee to agree to one or more of the following terms and conditions, including the following:

- (1) Comply with all applicable sections of this Ordinance and conditions of this Permit;
- (2) Obtain a Permit or Certification before commencement of clearing, grading, Quarrying and Mining and/or construction. However, limited clearing is allowed for Development surveying and testing and Quarry Exploration as described in this Ordinance and the LCRA Technical Manual;
- (3) Obtain a Permit Amendment from LCRA prior to modifying the approved BMPs. However, no Permit Amendment is required for minor field adjustments of temporary Erosion controls;
- (4) Install all BMPs as identified in the approved Permit. Contractor and the engineering firm shall be solely responsible for design, planning and construction under this Permit. LCRA is not responsible for any defects resulting from the design or construction under this Permit;
- (5) Comply with the requirements of the LCRA Technical Manual and specific BMP manufacturer regarding formation of a property owners/maintenance association and any associated maintenance plans;
- (6) Repair any siltation or Erosion damage resulting from this project;
- (7) Inspect all temporary Erosion and Sedimentation controls per the LCRA Technical Manual requirements, and make needed repairs;
- (8) Allow LCRA to enter the Site for the purpose of inspecting compliance with the Permit, or for performing any work necessary to bring the Site into compliance with the Permit;

- (9) Designate a visible location on the Site for the posting of Permits;
- (10) Keep a copy of the Permit and all plans on the Site;
- (11) Upon completion of the project, provide the LCRA a written certification by the project engineer that the Stormwater Pollution controls are constructed in accordance with the Permit conditions and this Ordinance;
- (12) Promptly notify LCRA in writing of any change in the name, address, or telephone number of the Permittee;
- (13) Permittee, at own risk, may commence Development or Quarry/Mine prior to the expiration of the appeal period as defined in Section 11(b). If an appeal is filed, the Project must cease immediately and shall not continue until the appeal is resolved by successful mediation; has been withdrawn; or has resulted in a Board action as described in Section 11(j).
- (14) If the Permit is not already in the name of the Person responsible for the permanent BMP maintenance, assign the Development Permit and all rights and obligations associated therewith to the Landowner, maintenance, or Property Owner's Association as applicable, upon completion of construction of the Development;
- (15) Perform all activities in accordance with all federal, state, or local laws or Ordinances;
- (16) Indemnify and hold LCRA harmless from any and all claims, demands, damages, actions, costs and charges to which LCRA may become subject and which LCRA may have to pay by reason of injury to any Person or property, or loss of life or property resulting from, or in any way connected with, the Permittee's acts or negligence under this Permit;
- (17) Permittee understands that LCRA has constructed and is operating certain dams across the Colorado River and its tributaries. LCRA reserves the right to use property owned by it or on which it has flowage or inundation easements for any legal purpose that it sees fit in the operation and maintenance of its dams and reservoirs. LCRA makes no guarantee that the level of any lake operated and maintained by it will be retained at any specific lake level for any particular time, it being fully understood by Permittee that lake levels will vary as a result of LCRA's operations of its dams on the Colorado River. LCRA specifically reserves the right and privilege to inundate with water at any time and as many times as LCRA may see fit all or any part of the land covered by this Permit which is subject to a flowage or inundation easement without any liability on the part of LCRA to Permittee for making such use of said property, or any part thereof;
- (18) No work is authorized that is not directly addressed in the Permit application submitted to LCRA;

- (19) Nothing in this Permit is intended to amend or alter any legal rights or benefits previously granted to or vested in LCRA;
- (20) Any other terms and conditions agreed upon by LCRA and the Applicant.
- (21) Pay all fees associated at the time the application is submitted.
- (22) A Permittee is required to comply with any other applicable federal, state and local laws and regulations.

(b) Additional Permit Conditions. Additional Permit conditions may be required as necessary in order to achieve compliance with the Ordinance.

SECTION 8. RIGHT OF ENTRY AND INSPECTION

Right of Entry. Any Person, or his successors or assigns, who has filed a Permit application, received a Permit under this Ordinance, or is otherwise subject to the provisions of this Ordinance, shall allow entry by LCRA on the Site for the purposes of inspection and monitoring. Employees and agents of LCRA are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions related to water quality and administration of this Ordinance. LCRA will provide 48-hour notice, not to include weekends or holidays, to the Quarry/Mine Permittee prior to entering the site to ensure the safety of the LCRA staff.

SECTION 9. ENFORCEMENT

(a) Violations. It is unlawful under this Ordinance:

- (1) for any Landowner or Land User subject to the permitting requirements of this Ordinance to commence or undertake any Development, Quarry/Mine or Redevelopment or to cause, suffer, or allow another to commence or undertake Development or Redevelopment on his or her property under the Landowner or Land User's ownership or control without first obtaining a valid Development/Quarry/Mine Permit or any other valid authorization pursuant to Section 4 from LCRA;
- (2) for any Landowner or Land User subject to this Ordinance to conduct Development/Quarry/Mine activity after a stop-work order has been issued; or
- (3) for any Landowner or Land User subject to this Ordinance to fail to maintain the BMPs in accordance with the BMP Maintenance Permit or approved maintenance plan; or
- (4) for any Landowner or Land User subject to this Ordinance to otherwise commence, construct or engage in Development/Quarry/Mine activity in a manner that violates any provision of this Ordinance.
- (5) for any Landowner or Land User to fail to comply with any term or condition of an approved Permit;

(6) for any Landowner or Land User to fail to comply with the standards provided in the LCRA Technical Manual for a Dredge and Fill or Shoreline Stabilization project subject to this Ordinance.

- (b) **Stop-Work Order.** If, at any time, LCRA determines that Development/Quarry/Mine activities has occurred or is occurring without full compliance with this Ordinance, the LCRA may issue a stop-work order. The stop-work order will direct that no further Development/Quarrying/Mining shall take place until the Landowner or Land User and/or Permittee comes into full and complete compliance with this Ordinance. The stop-work order shall be in writing and, in the case of a permitted Development/Quarry/Mine, shall be posted at the Site in the location designated for posting such notices. The stop-work order will specify the deficiencies that cause the Development/Quarry/Mine to be out of compliance. If the Development/Quarry/Mine is occurring on an unpermitted Site, or if no location has been designated or maintained for the posting of notices, the notice shall be prominently posted at the Site, in a visible location. Immediately upon posting a stop-work order, a Landowner or Land User without a currently valid Permit shall cease all Development/Quarry/Mine activity.
- (c) **Permit Revocation.** A Permittee shall have 10 calendar days from the date that the stop-work order is posted to comply with the terms and conditions of the Development/Quarry/Mine Permit and this Ordinance. If the Permittee has appealed the stop-work order and the General Manager does not decide the appeal in the Permittee's favor, Permittee shall have 10 calendar days from the date of the General Manager's decision to comply with the terms and conditions of the Permit. If a Permittee fails to comply within this period, LCRA may revoke the Permit.
- (d) **Appeal by Permittee.** A Permittee may appeal the issuance of a stop-work order to the LCRA General Manager by submitting in writing a concise statement of any reason or reasons that the stop-work order should not have been issued. An appeal of the stop-work order must be received in the office of the LCRA General Manager within 10 calendar days from the date that the stop-work order is posted. The LCRA General Manager may decide the appeal based upon the reasons stated in the appeal or may request additional information from the staff or appellant.
- (e) **Enforcement of BMPs Maintenance Permits.** If LCRA determines that a Landowner, maintenance association, property owner association, Permittee, or Political Subdivision is not implementing the approved maintenance plan or is not in full and complete compliance with one of the other conditions contained in the BMP Maintenance Permit, the Landowner, maintenance association, property owner association, Permittee, or Political Subdivision may be notified of the deficiency. From the date that the notice is issued, a Landowner, maintenance association, property owner association, Permittee, or Political Subdivision shall have 10 calendar days to prepare a corrective action plan and 45 calendar days from the date that the notice is issued to comply with the corrective action plan, maintenance plan or BMP Maintenance Permit condition. If the Landowner, maintenance association, property owner association, Permittee, or Political Subdivision fails to comply within this period, LCRA may perform the necessary maintenance and assess the maintenance association, property owner association, Permittee or Political Subdivision for the costs

associated with the work performed. LCRA may also seek penalties as provided in this section.

- (f) **Penalty.** Any Person violating provisions of this Ordinance shall be subject to a civil penalty of not more than \$5,000 for each violation. Each calendar day a violation exists shall constitute a separate violation.
- (g) **Other Remedies and Injunction.** Compliance with the provisions of this Ordinance may also be enforced through any and all other remedies at law or in equity including enforcement by injunction.

SECTION 10. VARIANCES

- (a) **Variance.** LCRA staff shall have the discretion to grant a variance to the provisions of this Ordinance on a case-by-case basis. Granting the variance must not adversely impact stormwater quality discharging from the Development/Quarry/Mine, create a significant impact to Adjacent Property Owners, or compromise water quality or public safety. An increase in cost of the project resulting from adherence to one or more of the provisions of the Ordinance shall not be justification for a variance.
- (b) **Requests for Variance.** A request for Variance shall be made prior to public notice commencing and shall be reviewed and processed in accordance with all of the procedures contained in this Ordinance, including those related to application processing, Permit issuance, and appeals. Receipt of a variance request may result in an extension of the Technical Review period.

SECTION 11. APPEALS OF PERMIT DECISIONS

- (a) **Requesting an Appeal.** An Applicant or an Affected Person may appeal a decision by LCRA staff regarding the granting, denial, or revocation of a Development, Quarry/Mine Permit, or Quarry/Mine Certification under this Ordinance in accordance with the requirements of this Section.
- (b) **Filing of Appeal.** An Applicant or Affected Person must file a Request for Appeal within 15 calendar days after the date of the action on the Permit. The request for appeal shall be filed with the LCRA General Counsel in accordance with the procedures outlined in this Section. The request for an appeal must be in writing and contain a concise statement of the reasons for the appeal and cite the specific performance standards that the Development, Quarry/Mine Permit, or Quarry/Mine Certification did or did not meet. If Development or Quarry/Mine activity has commenced and an appeal has been filed, all Development or Quarry/Mine activity must cease immediately and must not continue until the appeal is resolved pursuant to this Section.
- (c) **Notice of Appeal.** Notwithstanding Section 11(g), the LCRA General Counsel shall send written notice of receipt of any request(s) for Appeal to the Board, LCRA staff, the Applicant, and any Persons filing a Request for Appeal, within three business days after the

expiration of the date for filing Request for Appeals. Such notice shall identify the parties, generally describe and summarize the issues raised by the appeal, and advise the prohibition against ex parte contacts.

Once an appeal has been filed the LCRA General Counsel shall not participate in any substantive discussions or correspondence regarding the LCRA staff's legal position on the appeal that has been filed. LCRA General Counsel shall advise the Board on matters related to the appeal. Until the appeal has been withdrawn or has resulted in a Board action as described in (j) below, LCRA General Counsel shall designate one or more attorneys in his or her office who shall represent the LCRA staff regarding the appeal.

(d) Form of Appeal. A request for appeal must be in writing, timely filed, submitted as an original and two copies, and shall not exceed 20 pages in length, including exhibits or attachments. The Request for Appeal shall include the following information:

- (1) Name and address of the Person(s) filing the Request for Appeal;
- (2) name of the Applicant, if different than subparagraph d (1);
- (3) a concise statement of how the Person filing the appeal is affected by the issuance or denial of the Permit or by one or more of the terms or conditions of the Permit;
- (4) if appealing a recommendation for Permit approval, which specific performance standards in Section 5 are not being met; and
- (5) information required by subparagraph (e)

(e) Validity of Appeal. For an appeal to be valid, the Request for Appeal must meet all of the following criteria:

- (1) Be filed in accordance with this Section and the LCRA Technical Manual as amended; and
- (2) Demonstrate that the Applicant or Affected Person requesting the appeal provided written comments to staff in accordance with Section 6. If the Applicant or Affected Person did not provide written comments in accordance with Section 6, the Applicant or Affected Person must provide a compelling reason why their request for appeal should be considered, nevertheless; and
- (3) only raise matters or issues that were presented in writing pursuant to Section 6 or as part of the Permit application; and
- (4) for appeals filed by Affected Persons, allege the failure of specific performance standards in Section 4 and 5 or as further required by the Development Permit, Quarry/Mine Permit or Quarry/Mine Certification; and
- (5) provide credible evidence in support of the allegations raised by the Request for Appeal; and

- (6) demonstrate how such allegations, if taken as true, would change the terms and conditions of the Permit or would affect the issuance of the Permit; and
- (7) demonstrate that such allegations are related to a matter that LCRA has jurisdiction to consider. For example: the LCRA may not consider increase in vehicle traffic, noise, incompatibility of land uses, or questions of property rights, property ownership or easement rights (if LCRA is in possession of a title opinion from the applicant).

(f) Determination of Validity of Appeal.

- (1) **Commencement of Permit Activities and Construction.** Once an appeal has been filed, all Development or Quarry/Mine activity must cease until the appeal is resolved.
- (2) **Staff Review.** The LCRA staff shall evaluate the Request for Appeal within 15 calendar days after the expiration of the date for filing Requests for Appeal to determine if such request meets the requirements of Section 11 (a), (b) and (d). If the appeal does not meet the requirements of Section 11 (a), (b) and (d), staff shall return the Request for Appeal and the Staff's Permit decision will become final. If the Request for Appeal meets the requirements of Section 11 (a), (b) and (d), staff shall forward the Development or Quarry/Mine Permit or Quarry/Mine Certification and the application, together with such Requests for Appeal and the staff's statement as to the elements of such Request for Appeal to the LCRA General Manager for consideration of the validity of the Request for Appeal.
- (3) **General Manager Review.** Within 15 calendar days from the referral of the Request for Appeal from LCRA staff pursuant to this Section, the General Manager shall determine the validity or invalidity of the Request for Appeal.
- (4) **General Manager's Decision Final.** The General Manager's determination of the validity or invalidity shall be final. Upon a determination that a Request for Appeal is invalid, the staff's Permit decision shall become final.
- (5) **Effect of Pending Appeal on Permit Expiration.** The expiration date stated in the Permit issued after an appeal shall be based on the date the appeal is resolved.
- (6) **Valid Appeal and Notification.** If the appeal is determined to be valid, the General Manager shall direct the LCRA General Counsel to immediately provide written notice of the General Manager's decision regarding the validity of the appeal to staff and send such notice by first class mail to all Persons filing a Request for Appeal and the Applicant. Any notice regarding valid appeals shall include information regarding the mediation requirements in Section 11(g).

- (g) Mediation Required Prior to Hearing of Valid Appeal.** Within 30 calendar days of a decision by the General Manager that a valid appeal has been filed, the Person(s) with valid Request for Appeal ("Appellant(s)"), Applicant, and LCRA staff shall complete mediation of the disputed issues. Any party required to participate in mediation that fails to participate within the prescribed time period shall be precluded from further participation as

a party in any appeal of the staff's Permit decision. Such mediation shall be conducted by a neutral mediator selected by agreement of the parties, or if the parties fail to agree, by a mediator selected by the LCRA General Counsel. Costs of mediation shall be shared equally among all the parties, including LCRA, to the mediation. Any party that fails to pay such costs shall be precluded from further participation as a party in any appeal of the staff's Permit decision. The mediator shall submit a written report, including a recommendation on the alignment of parties, informing the LCRA General Counsel of the result of the mediation within five calendar days after completion of the mediation. If the mediation is completed but does not result in the withdrawal of an appeal, further consideration of any unresolved appeal shall proceed under Section 11(h).

(h) Responses to Valid Appeals.

- (1) **Staff Response to Valid Appeal.** Absent a successful mediation of the appeal, within 10 calendar days after the receipt of the written report required under Section 11(g), staff shall prepare a written response to the appeal. Any response shall not exceed 20 pages in length including exhibits and attachments, and shall be submitted to the LCRA General Counsel and mailed by certified mail, return-receipt requested, to the Applicant and all Appellants.
- (2) **Applicant Response to Valid Appeal.** Absent a mediation that results in the withdrawal of an appeal, within 10 calendar days after the receipt of the written report required under Section 11(g), the Applicant, if not the Appellant, may submit a written response to the appeal to the LCRA General Counsel. Any response shall not exceed 20 pages including exhibits and attachments, and shall be mailed by certified mail, return-receipt requested, to all Appellants.
- (3) **Appellant Response to Valid Appeal.** Absent a mediation that results in the withdrawal of the appeal, within 20 calendar days after the receipt of the written report required under Section 11(g), the Appellant(s) may submit a written response to the appeal to the LCRA General Counsel. If the Appellant(s) wish to propose party alignment pursuant to Section 11(i)(6), Appellant(s) shall submit the proposed alignment within 20 calendar days after the receipt of the written report required Section 11(g). Any response to the Applicant and to LCRA staff shall not exceed 20 pages including exhibits and attachments and shall be mailed by certified mail, return-receipt requested.
- (4) **Valid Appeal Forwarded to Water Operations Committee Chair.** Upon expiration of the deadline for the Applicant to submit a response pursuant to subparagraph (h)(2) above, the LCRA General Counsel shall forward to the Chair of the Water Operations Committee a copy of the Permit, all valid appeals, the staff response and Applicant's response, if any.

(i) Water Operations Committee Consideration of Valid Appeal.

- (1) **Forum.** Taking into consideration the complexity of the issues, the number of appellants, and the need to develop an adequate evidentiary record, the Chair of the Water Operations Committee shall determine the most appropriate forum for consideration of an appeal.

The Chair of the Water Operations Committee may:

- (a) consider all of the written information forwarded by the LCRA General Counsel and direct staff to issue the Permit;
 - (b) forward the appeal to the Water Operations Committee with a recommendation that the Committee consider all of the written information submitted and allow each party to the proceeding an allotment of time to present oral arguments;
 - (c) forward the appeal to the Water Operations Committee with a recommendation that they consider the appeal using another method agreed to by all of the parties.
- (2) **Scheduling of Hearing.** Upon the direction of the Water Operations Committee Chair, as specified in Section 11(i)(1), a hearing before the Water Operations Committee may be held to consider a valid appeal. Such hearing should be scheduled no later than 45 calendar days after receipt of the required mediation report or the next meeting of the Water Operations Committee, whichever occurs later.
- (3) **Written Information Provided.** No later than 15 calendar days prior to the date scheduled for the hearing, the LCRA General Counsel shall forward to the members of the Committee the following materials:
- (i) All written information received from Appellants relative to a valid appeal and in accordance with this entire Section;
 - (ii) the staff's response prepared in accordance with this Section;
 - (iii) the Applicant's response submitted pursuant to this Section, if any.
 - (iv) the Appellants response to the staff's and Applicant's responses.
- (4) **Open Hearing.** The hearing shall be open to the public.
- (5) **Participants.** Only the Applicant/Permittee, LCRA staff, the Appellant(s), or any of their designated representatives, shall be entitled to participate in the hearing.
- (6) **Alignment of Parties.** Subject to the approval of the LCRA General Counsel, the parties shall establish their own alignments. In cases where parties fail to establish alignments, the LCRA General Counsel shall align parties (other than staff) according to their positions in support of, or opposed to, staff's Permit decision. Except for an Applicant appealing a condition in a Permit, those Appellants opposed only to specific parts of the staff's Permit decision shall be aligned with those Appellants generally opposed to the staff's Permit decision. An Applicant appealing a condition in a Permit shall be separately aligned from other Appellants, if any, opposed to the staff's Permit decision. Each of the aligned parties shall designate a spokesperson to speak on their behalf. If any of the aligned parties cannot agree to a spokesperson, the LCRA General Counsel shall designate a Person.

(7) **Procedure.** The hearing process is as follows:

(i) **Staff Summary.** The Water Operations Committee shall convene in open session and shall receive a presentation by staff not to exceed 15 minutes which summarizes the position of each party to the appeal, including the staff's position. The staff summary shall be based upon all written information validly received from Appellants, in accordance with this Section, the Application and the information contained in the Applicant's or Permittee's file.

(ii) **Oral Argument.** If oral arguments are requested by the Water Operations Committee Chair pursuant to subparagraph (i)(1):

(a) The parties in opposition to the staff's Permit decision, as aligned by the LCRA General Counsel, will follow and will be collectively allowed a total of 20 minutes to make their argument(s).

(b) The parties in support of the staff's Permit decision, as aligned by LCRA General Counsel, will follow and will collectively have a total of 20 minutes to make their argument(s).

(c) Staff shall be given 15 minutes to rebut the presentation of the parties aligned in opposition to the staff's Permit decision.

(d) Each group of aligned parties, shall have five minutes to summarize their respective positions.

(iii) **Presentation of Additional Evidence.** If approved by the Water Operations Committee Chair any party may offer as part of their presentation additional evidence in the form of written information or documentation, if the information has been provided to all other parties at least seven calendar days in advance of the hearing date.

(iv) The Committee shall have the discretion to alter the hearing process as needed for full presentation of all relevant information. The Committee may ask questions of any party or Person that has registered with the LCRA General Counsel and is a member or representative of a valid party to the appeal at anytime during the proceeding.

(8) **Water Operations Committee Deliberation.** The Water Operations Committee shall deliberate in open session taking into consideration the presentations of staff and the parties, if any, and all written materials submitted to the Water Operations Committee as a valid part of the appeal process. Notwithstanding the foregoing, the Water Operations Committee may confer with the LCRA General Counsel in Executive Session for the purpose of receiving legal advice concerning the appeal.

(9) **Water Operations Committee Recommendation.** The Water Operations Committee shall make a recommendation based on written information provided to the Water Operations Committee prior to the hearing, documents contained in the Application file,

and any other evidence or information submitted at the hearing, if recommended by the Chair to be considered by the Water Operations Committee.

The Water Operations Committee may recommend:

- (a) Issuance of the Permit;
- (b) Denial of the Permit; or
- (c) Modification of the Permit.

(10) **Procedures May Be Altered as Justice Requires.** The Water Operations Committee may alter the procedures set forth in this Section and the LCRA Technical Manual, if necessary, to develop an adequate record, to afford full opportunity for the public participation or comment by the Applicant or staff, or if in the public interest.

(j) **Board Consideration of Water Operations Committee Recommendation:** The Water Operations Committee's recommendation shall be forwarded to the full LCRA Board for consideration within 45 calendar days of the Water Operations Committee's recommendation. The Board shall consider the Water Operations Committee's recommendation and may, at its discretion, ask questions of the parties. Parties may not make additional arguments or comments to the Board without the permission of the Board. The Board may take the following action:

- (1) affirm the Water Operations Committee's recommendation;
- (2) reject the Water Operations Committee's recommendation; or
- (3) modify the Water Operations Committee's decision.

(k) **Ex Parte Communications.**

(1) **Prohibition.** Any communication by an Applicant/Permittee, party requesting an appeal or their representatives, or LCRA staff member with Committee or other member(s) of the LCRA Board on the merits of any pending appeal or decision affecting a Permit or Permit Amendment from the date of the Permit or Permit Amendment is issued by staff until the date the appeal is decided in accordance with this Section, other than at a hearing or in a public meeting of the Committee or the Board is strictly prohibited. Notwithstanding the foregoing, the LCRA General Counsel may consult with the Board or any of its Directors regarding the appeal.

(2) **Effect of Violation.** Any Person who violates this provision may be subject to sanctions, which may include:

- (i) Return of the application if the violation is from the Applicant or his/her representative;
- (ii) return all or a portion of the application fee if the violation is from LCRA staff; or

- (iii) automatic rejection of the appeal if the violation is from a Person requesting an appeal or a Person otherwise opposed to the application.

SECTION 12. COORDINATION WITH OTHER GOVERNMENTAL ENTITIES AND AGENCIES AND LCRA ORDINANCES

- (a) **Municipalities without a Water Quality Protection Ordinance.** Those municipalities within the jurisdiction and scope of this Ordinance that do not have a water quality protection Ordinance that is at least as stringent as this Ordinance are encouraged to enter into an Interlocal Agreement or Memorandum of Understanding with LCRA stating that they will adopt and administer a water quality protection Ordinance for new Development within their jurisdiction consistent with this Ordinance.
- (b) **Agreements.** LCRA may pursue Memoranda of Understanding or Interlocal Agreements with municipalities and other Political Subdivisions or governmental entities within the jurisdiction of this Ordinance to develop and implement stormwater controls for activities within their jurisdiction that may cause Pollution from stormwater.
- (c) **Highland Lakes Marina Ordinance.** Any owner or operator of a marina, or support facility, that is constructed or modified after the effective date of this Ordinance and which is subject to the requirements of LCRA's Highland Lakes Marina Ordinance, must also comply with applicable provisions of this Ordinance.
- (d) **On-Site Sewage Facilities.** Any owner or operator of private septic system generating 5,000 gallons of wastewater or less per day that is installed or modified after the effective date of this Ordinance, and which requires a private sewage facility license from LCRA must also comply, provide, and maintain temporary Erosion controls during construction until the Site has been permanently stabilized.

SECTION 13. SAVINGS CLAUSE; AMENDMENT; EFFECTIVE DATE; REVIEW

- (a) **Savings Clause.** If any word, clause, sentence, process or provision of this Ordinance or the application thereof to any Person or circumstance shall be held to be invalid, the remainder of the Ordinance to that Person or circumstance and the application of such provision to other Persons or circumstances, shall not be affected thereby.
- (b) **Amendment of the Ordinance, LCRA Technical Manual, or Fee Schedule.** This Ordinance may be amended by the Board from time to time after notice and reasonable opportunity for public review. The LCRA Technical Manual may be amended by LCRA's General Manager from time to time after notice and reasonable opportunity for public review. The General Manager will notify the LCRA Board of Directors of any amendments to the LCRA Technical Manual. The fee schedule may be amended from time to time by the Board after notice and reasonable opportunity for public review.
- (c) **Effective Date.** This Ordinance is a merger and combination of amendments to the Lake Travis NPS Ordinance and the Upper Highland Lakes NPS Ordinance (the Ordinances). The Ordinances are combined and renamed the Highland Lakes Watershed Ordinance. The Lake

Travis NPS Ordinance and the Upper Highland Lakes NPS Ordinance shall continue in effect until February 1, 2006. The effective date of the Highland Lakes Watershed Ordinance shall be February 1, 2006.

(d) Review. This Ordinance shall be reviewed for its effectiveness for protecting the quality of water in the Highland Lakes and its tributaries no later than three years from its effective date.