ORDINANCE NO. 2004-O-33

AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, PROVIDING FOR WATER QUALITY REGULATIONS AND PERMITS; PROVIDING STANDARDS FOR THE DEVELOPMENT AND USE OF LAND WITHIN THE VILLAGE TO PROTECT THE QUALITY OF THE SURFACE WATERS AND GROUNDWATERS; PROVIDING DEFINITIONS, SEVERABILITY, OPEN MEETINGS AND EFFECTIVE DATE CLAUSES; PROVIDING PENALTIES; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the Village of Volente desires to adopt water quality regulations pursuant to the provisions of the Texas Local Government Code, the Texas Water Code and the Texas Health & Safety Code to promote the public health, safety, and general welfare of the citizens of the Village of Volente;

WHEREAS, the provisions of this ordinance are consistent with the provisions of the comprehensive plan for the Village of Volente and are designed to achieve the purposes set forth in Texas Local Government Code, the Texas Water Code and the Texas Health & Safety Code;

WHEREAS, the Village of Volente has complied with the notice and public hearing requirements of the Texas Local Government Code and the Texas Open Meetings Act;

WHEREAS, the Village of Volente has established a Planning and Zoning Commission ("Commission") pursuant to Section 211.007 of the Texas Local Government Code and has received a recommended water quality ordinance from the Commission;

WHEREAS, the Village of Volente desires to adopt the following regulations and standards for protecting water quality and controlling the development and use of the land within the Village of Volente to prevent damage to the quality of the surface waters and groundwater impacted by activities within the Village of Volente;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE VILLAGE OF VOLENTE, TEXAS, THAT:

ARTICLE 32.100 NONPOINT SOURCE POLLUTION CONTROL

DIVISION 1: GENERAL PROVISIONS

Sec. 32.101 Authority

This article is promulgated under the authority of Sections 26.177 and 26.180, Texas Water Code.

Sec. 32.102 Scope of Authority and Jurisdiction

This article shall apply to all territory within the incorporated limits and any extraterritorial jurisdiction of the Village of Volente, Texas. Any person proposing to develop land or improve property within the jurisdiction of the Village is subject to the provisions of this article. This article also applies to individual building structures, subdivisions, excavation and fill operations, land disturbing activities, construction of impervious cover, and similar activities.

Sec. 32.103 Findings of Fact

The drainage ways, creek areas, and water bodies of the Village of Volente, Texas, are subject to the potential for periodic pollution which may result in the loss of life and property, health and safety hazards, disruption of commerce and governmental services and extraordinary public expenditures for pollution reduction and protection, all of which adversely affect the public health, safety and general welfare.

(1) All watersheds within the Village's jurisdiction are undergoing development or are facing development pressure, which if not properly regulated can adversely impact stormwater quality.

(2) All watersheds within the Village's jurisdiction, and especially those with abrupt topography, sparse vegetation, and thin and easily disturbed soil, are vulnerable to degradation resulting from development activities.

(3) The development of land causes large quantities of soil to be displaced and transported to downstream locations. This soil displacement can create significant soil erosion, degradation of the water quality, and sedimentation problems. Erosion is a dangerous activity in that it contaminates water supplies and water resources. A buildup of sediment degrades water quality, destroys valuable environmental resources and clogs watercourses and storm drains.

(4) The continued economic growth of the Village is dependent on adequate quality and quantity of water, a pleasing and healthy natural environment, and recreational opportunities in close proximity to the Village.

(5) Specifically, creek, floodplain, and water body areas in the Village are valuable resources to the citizens of the Village in that they provide recreational opportunities, improve the aesthetics of the community, convey stormwater runoff, filter water pollutants, and provide natural habitat.

(6) If watersheds within the Village's jurisdiction are not developed in a sensitive and innovative manner, their water resources, natural environment, and recreational characteristics will be irreparably damaged.

As valuable resources, creeks, floodplains, and water bodies warrant protection.

(7) The Village is desirous of adopting appropriate development rules and regulations for the purpose of protecting the water quality of the watersheds within its jurisdiction.

Sec. 32.104 Statement of Purpose

Non-point source pollution control management policies shall govern the planning, design, construction, operation and maintenance of drainage, erosion, and water quality control facilities within the Village and its zone of extraterritorial jurisdiction. This article sets forth the minimum requirements necessary to provide and maintain a safe, efficient and effective non-point source pollution control system within the Village and to establish the various public and private responsibilities for the provision thereof. Further, it is the purpose of this article to:

(1) Protect human life, health and property;

(2) Minimize the expenditure of public money for building and maintaining non-point source pollution control projects and cleaning sediments out of storm drains, drainage ways, streets, sidewalks and watercourses;

(3) Help maintain a stable tax base and preserve land values;

(4) Preserve the natural beauty and aesthetics of the community;

(5) Control and manage the quality of stormwater runoff and the sediment load in that runoff, from points and surfaces within subdivisions and from land disturbing activities;

(6) Establish a reasonable standard of design and performance for development which prevents erosion and sediment damage and which reduces the pollutant loading to streams, ponds and other watercourses and water bodies.

Sec. 32.105 Lands to which this Article Applies

This article shall apply to all areas of land within the incorporated limits and any extraterritorial jurisdiction of the Village.

Sec. 32.106 Supplemental Technical Standards and Manuals

The Lower Colorado River Authority Non-Point Source Pollution Control Manual (LCRA Technical Manual) and the City of Austin, Texas Drainage Criteria Manual and Environmental Criteria Manual, are adopted by reference and shall be the technical procedures to be used to comply with the provisions contained in this article. The criteria

specified in the latest editions of the manual shall become part of the official non-point source pollution management plan for the Village. Although the intention of these manuals is to establish uniform design practices, it neither replaces the need for engineering judgment nor precludes the use of information not presented. Other accepted engineering procedures may be used to conduct hydrologic, hydraulic and environmental studies and designs if approved by the Village council. The manuals are maintained and available for inspection at the Village office.

DIVISION 2: DEFINITIONS

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated.

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

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

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

And: Where necessary to effectuate the intent of this article, or to prevent an ambiguity or mistake, the words "and" and "or" are interchangeable.

Annual Pollutant Load: The amount of pollution in stormwater runoff that is discharged from a developed site over the course of one (l) year; measured in pounds and based on an average year of rainfall runoff. (The average annual rainfall in the Village area watershed is 32.5 inches per year.) The annual pollutant load is calculated by multiplying the drainage area of the site by the volume of rainfall runoff by the developed stormwater pollutant concentrations and includes the background pollutant load.

Annual Pollutant Load Concentration: The concentration of developed pollution in stormwater runoff, measured in milligrams per liter, for total suspended solids (TSS), total phosphorous (TP), and oil and grease (O&G), complying with the concentration values of the LCRA Technical Manual.

Applicant: A person who submits an application for approval required by this article. The applicant shall be the owner of the property subject to this article acting in person or by and through the owner's authorized representative.

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

Background Pollutant Load: The amount of pollution in stormwater runoff that is discharged from a site before development over the course of one (1) year, measured in pounds and based on an average year of rainfall runoff. (The average annual rainfall in the Village area watershed is 32.5 inches per year). The background pollutant load is calculated by multiplying the drainage area of the site by the volume of rainfall runoff by the background stormwater pollution concentrations. The annual runoff coefficient for background conditions is 0.049.

Background Pollutant Load Concentration: The concentration of background pollution in stormwater runoff, measured in milligrams per liter, for total suspended solids (TSS), total phosphorus (TP), and oil and grease (O&G), complying with the concentration values of the LCRA Technical Manual.

Best Management Practice (BMP): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the non-point source pollution of water of the United States.

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

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

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

Building Official: The inspector or administrative official charged with responsibility for issuing building permits and enforcing the zoning and subdivision ordinances and building codes of the Village.

Commencement of Construction: The disturbance of soils associated with clearing, grading, or excavating activities or installation of temporary erosion and sediment controls, or other construction activities.

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

Construction Limit Line: The line marking the boundary of land disturbance caused by construction.

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

Critical Environmental Features (CEFs): Features determined to be of critical importance to the maintenance of water quality, including floodplains, riparian corridors, steep slopes in excess of twenty-five percent *(25%),* ground water recharge areas, springs, wetlands, bluffs, caves, and highly erodible natural features.

Cut: Excavation into natural ground or into fill to effect a reduction in elevation.

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

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

Discharge: Any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the stormwater drainage system or into waters of the United States or the State.

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

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

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

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

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

Easement: An area of restricted use on private property upon which the Village or a public utility, or both, have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, and/or other improvements or growths which in any way will endanger or interfere with the construction, maintenance or efficiency of its respective systems within said easements. The Village and public utilities, at all times, have the right to ingress and egress to and from and upon easements for the purposes of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of their respective systems without the necessity at any time of procuring of permission of anyone.

Environmental Protection Agency (EPA): The United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of EPA or such successor agency.

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

ETJ: The extraterritorial jurisdiction of the Village.

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

Facility: Any building, structure, installation, process, or activity from which there is or may be discharge of a pollutant.

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

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

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

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) the overflow of inland or tidal waters.

(2) the unusual and rapid accumulation or runoff of surface waters from any source.

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

Harmful Quantity: The amount of any substance that will cause pollution.

Hazardous Household Waste (HHW): Any material generated in a household (including single and multiple residences, hotels, motels, bunk houses, ranger stations, crew quarters, camp grounds, picnic grounds, and day use recreational areas) by a consumer which, except for the exclusion provided in 40 CFR §261 .4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.

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

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

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

Impervious Cover: Buildings, parking areas, roads, and other impermeable man-made improvements covering the natural land surface that prevents direct infiltration.

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

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

LCRA: The Lower Colorado River Authority and duly authorized official of the LCRA.

Landowner: Any person holding title to or having an 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.

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

Multi-family Dwelling: Two (2) or more dwelling units on a single lot designed to be occupied by two (2) or more families living independently of one another, exclusive of hotels and motels. Includes two-family units (duplex),three-family units (triplex), and four-family units (quadriplex), as well as traditional apartments.

Must/May: The word "must" is always mandatory, while the word "may" is merely permissive.

NPDES/TPDES: National/Texas Pollution Discharge Elimination System.

Natural Drainage: A stormwater runoff conveyance system not altered by manmade changes of the land's surface.

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

New Construction: Construction for which the "start of construction" commenced on or after the date of adoption of this article by the Village.

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

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

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

Operator: The person or persons who, either individually or taken together, meet the following two criteria: (1) they have operational control over the facility specifications, including the ability to make modifications in specifications; and (2) they have the day-to-day operational control over those activities at the facility necessary to ensure compliance with pollution prevention requirements and any permit conditions.

Other Municipal Ordinances: Ordinances such as, but not limited to, zoning, subdivision and construction specifications.

Or: Where necessary to effectuate the intent of this article, or to prevent an ambiguity or mistake, the words "and" and "or" are interchangeable.

Owner: The person who owns a facility or part of a facility or a lessee.

Permittee: A landowner or land user who is undertaking land development or land disturbance activities pursuant to a permit or approval granted according to the provisions of this article.

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

Petroleum Product: A petroleum product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including motor gasoline, gasohol; other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel. The term does not include naphtha-type jet fuel, kerosene-type jet fuel, or a petroleum product destined for use in chemical manufacturing or feedstock of that manufacturing.

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

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

Pollutant: Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

Pollution: The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the State that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Public Improvements: Facilities, infrastructure and other appurtenances as defined by the ordinances of the Village.

Qualified Personnel: Persons who possess the appropriate competence, skills, and ability, as demonstrated by sufficient education, training, experience, and, when applicable, any required certification or licensing to perform a specific activity in a timely and complete manner consistent with the applicable regulatory requirements and generally-accepted industry standards for such activity.

Release: Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the stormwater drainage system or the waters of the United States or the waters of the State.

Right-of-Way: A parcel of land occupied or intended to be occupied, by a street or alley. Where appropriate, "right-of-way" may include other facilities and utilities such as sidewalks; railroad crossings; electrical, communication, oil and/or gas facilities; water, wastewater and drainage facilities; or for any other special use. The use of right-of-way shall also include parkways and medians outside of the paved portion of the street.

Riparian Corridor: The ecological areas within and adjacent to the floodplain that can be compromised of the following species:

> Pecan, American Elm, Arizona Walnut, Bald Cypress, Black Walnut, Bur Oak, Cedar Elm, Little Walnut, Green Ash, Texas Surgarberry, American Sycamore, Eastern Cottonwood and Black Willow, Live Oak

Rubbish: Nonputrescible solid waste, excluding ashes, that consist of (1) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (2) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

Runoff: That portion of rainfall, melted snow, melted sleet, melted hail, irrigation, or drainage that flows across ground surface and reaches a stream, storm drain, or storm sewer.

Sanitary Sewer (or sewer): The system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to a sewage treatment plant (and to which stormwater, surface water, and groundwater are not intentionally admitted).

Sediment: Solid soil material, both mineral and organic, that is being moved or has been moved from its original site by wind, gravity, flowing water or ice. Also, sometimes referred to as "silt" or "sand."

Sedimentation: Deposit of detached soil particles.

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

Service Station: Any retail establishment engaged in the business of selling fuel for motor vehicles that is dispensed from stationary storage tanks.

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

Shall or Should: The word "shall" is always mandatory, while the word "should" is recommended but not mandatory.

Sheet Flow: Water or stormwater runoff flowing in a thin, diffused layer over the ground surfaces.

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

Solid Waste: Any garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material

its extra-territorial jurisdiction.

Violation: The failure of a structure or other development to be fully compliant with this article.

Waterway: A natural, defined water course as designated on the U.S. Geologic Survey topographic maps.

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

Water Quality Buffer Zone (WQBZ): Natural riparian areas along waterways and around critical environmental features that reduce overland flow velocities and filter pollutants.

Water Quality Control Best Management Practice (BMP): A structure, system, or feature that provides water quality benefits by treating the quality of stormwater runoff.

Water Quality Standard: The designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by the State to be necessary to protect those uses, as specified in Chapter 307 of Title 30 of the Texas Administrative Code.

Water Quality Volume: The volume of runoff necessary to be captured and treated to meet performance standards.

Waters of the United States: All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States" at 40 CFR § 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the federal Clean Water Act.

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

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

marshes, bogs, and similar areas.

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

DIVISION 3: NON-POINT SOURCE POLLUTION CONTROL MEASURES

Sec. 32.107 Non-point Source Pollution Control Management General Prohibitions

No person shall introduce or cause to be introduced into the stormwater drainage system any discharge that is not composed entirely of stormwater.

Sec. 32.108 Non-point Source Pollution Control Management Specific Prohibitions and Requirements

(a) No person shall introduce or cause to be introduced into the stormwater drainage system any discharge that causes or contributes to causing the Village to violate a water quality standard.

(b) No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the stormwater drainage system:

(1) Any used motor oil, antifreeze, or any other motor vehicle fluid;

(2) Any industrial waste;

(3) Any hazardous waste, including hazardous household waste;

(4) Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;

(5) Any garbage, rubbish, or yard waste;

(6) Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus, or heavy equipment, by a business or public entity that operates more than two such vehicles;

(7) Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;

(8) Any wastewater from a commercial mobile power washer or from the

washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;

(9) Any wastewater from commercial floor, rug, or carpet cleaning;

(10) Any wastewater from the washdown or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the washdown or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;

(11) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;

(12) Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydromulch material, or from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;

(13) Any runoff or washdown water from any animal pen, kennel, or fowl or livestock containment area;

(14) Any filter backwash from a swimming pool, or fountain, or spa;

(15) Any swimming pool water containing any harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;

(16) Any discharge from water line disinfection by superchlorination or other means if it contains any harmful quantity of chlorine or any other chemical used in line disinfection;

(17) Any fire protection water containing oil or hazardous substances or materials. This prohibition does not apply to discharges or flow from fire fighting by the Fire Department;

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

(19) Any contaminated runoff from a vehicle wrecking yard;

(20) Any substance or material that will damage, block, or clog the stormwater drainage system;

(21) Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge satisfies all of the following criteria:

(A) Compliance with all state and federal standards and requirements;

(B) No discharge containing a harmful quantity of any pollutant; and

(C) No discharge containing more than 50 parts per billion (ppb) of benzene; 500 ppb combined total quantities of benzene, toluene, ethylbenzene, and xylene (BTEX); or 15 parts per million (ppm) of total petroleum hydrocarbons (TPH).

(c) No person shall introduce or cause to be introduced into the stormwater drainage system any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities, or associated with landfilling or other placement or disposal of soil, rock, or other earth materials, in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable.

(d) No person shall connect a line conveying sanitary sewage, domestic or industrial, to the stormwater drainage system, or allow such a connection to continue.

(e) No person shall cause or allow any pavement washwater from a service station to be discharged into the stormwater drainage system unless such washwater has passed through a properly functioning and maintained, grease, oil, and sand interceptor and separator before discharge into the stormwater drainage system.

(f) Regulation of Pesticides, Herbicides, and Fertilizers.

(1) Any sale, distribution, application, labeling, manufacture, transportation, storage, or disposal of a pesticide, herbicide, or fertilizer must comply fully with all state and federal statutes and regulations including, without limitation, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and all federal regulations promulgated pursuant to FIFRA; Chapters 63, 75, and 76 of the Texas Agriculture Code and all state regulations promulgated pursuant thereto; and any other state or federal requirement.

(2) Any license, permit, registration, certification, or evidence of financial responsibility required by state or federal law for sale, distribution, application, manufacturer, transportation, storage, or disposal of a pesticide, herbicide or fertilizer must be presented to the Village and any Village law enforcement officer for examination upon request.

(3) No person shall use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation.

(4) No person shall use or cause to be used any pesticide, herbicide, or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the stormwater drainage system or waters of the United States or waters of the State.

(5) No person shall dispose of, discard, store, or transport a pesticide, herbicide, or fertilizer, or a pesticide, herbicide, or fertilizer container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the stormwater drainage system or waters of the United States or waters of the State.

(6) If provided with a display notice containing the provisions of this subsection, pertaining to the regulation of pesticides, herbicides, and fertilizers, or a reasonable description thereof and the information that any user of the product may obtain further information from the Village, any person selling pesticides, herbicides, or fertilizers at retail or wholesale shall post the notice prominently where it may be read by purchasers of the product.

(g) Used Oil Regulation

(1) No person shall:

(A) Discharge used oil into the stormwater drainage system or a sewer, drainage system, septic tank, surface water, groundwater, or water course;

(B) Knowingly mix or co-mingle used oil with solid waste that is to be disposed in a landfill or knowingly directly dispose used oil on land or in a landfill;

(C) Apply used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil into the environment.

(2) All businesses that change motor oil for the public, municipal waste landfills, and fire stations shall serve as public used-oil collection centers as provided by state statute.

(3) A retail dealer who annually sells directly to the public oil in containers for use off-premises shall post in a prominent place a sign informing the public that improper disposal of used oil is prohibited by law. The sign shall prominently display the toll-free telephone number of the state used-oil information center.

Sec. 32.109 Non-point Source Pollution Control Management Performance Standards

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

(a) Removal of Annual Pollutant Load Caused by Development:

(1) Single-Family Residential Use: For single-family residential use, comply with the criteria in the following table:

	Flatter Property (0 to 9.999% Slope)		
	Total Suspended Solids	Total Phosphorus	Oil and Grease
General	70%	70%	70%
Shoreline (within 500' of el. 691 contour)	75%	75%	75%

	Moderately Sloped Property (10 to 19.999% Slope)		
	Total Suspended Solids	Total Phosphorus	Oil and Grease
General	80%	75%	75%
Shoreline (within 500' of el. 691 contour)	90%	85%	85%

	Steeply Sloped Property (20% or greater Slope)		
	Total Suspended Solids	Total Phosphorus	Oil and Grease
General	90%	85%	85%
Shoreline (within 500' of el. 691 contour)	90%	85%	85%

(2) Alternative Performance Standards for Single-Family Use: Development of single-family residential use that meets all the following criteria need not demonstrate compliance with the criteria of subsection 32.109 (a)(1) above:

(A) Minimum lot size of one acre (1 ac); and

(B) Street and stormwater drainage system network designed without raised curbs (ribbon curbs are allowable) or gutters so that stormwater runoff is treated using diffused, over-land flow methods to a vegetated buffer. The vegetated buffer shall comply with the design and construction criteria of the LCRA Technical Manual; and

(C) Impervious cover is less than or equal to twenty percent (20%).

(3) Multi-Family Residential Use and Non-Residential Use: Multi-family residential use and non-residential use shall comply with the following criteria:

(A) Total suspended solids (TSS) removal:	95%
(B) Total phosphorus (TP) removal:	95%
(C) Oil and grease (O & G) removal:	95%

(4) Background and Developed Sites Pollutant Concentrations and Pollutant Loads:

(A) Pollutant concentrations shall be as defined in Division 2 of this article.

(B) Calculation of annual pollutant loading shall comply with the criteria given in the LCRA Technical Manual.

(C) Calculation of pollutant loading caused by development shall be the numerical difference between the annual pollutant load and the background pollutant load.

(b) Water Quality Volume: The minimum volume of stormwater runoff for water quality control shall be calculated in accordance with the LCRA Technical Manual.

(c) Impervious Cover:

(1) Impervious cover limits in this section are expressed as percentage of the gross site area.

(2) Impervious cover shall not exceed the following:

(A)	Single-family residential use:	20%
(B)	Multi-family residential use and non-residential use:	35%

(d) Water Quality Buffer Zones (WQBZ):

(1) Along Upland Waterways: A water quality buffer zone is established along each upland waterway as follows:

(A) Upland Waterways: The WQBZ shall extend a minimum of one hundred feet (100') from the outer limit of the peak two-year flood level paralleling each side of the waterway.

(B)The two year peak flood level shall be calculated in accordance with the City of Austin, Texas Drainage Criteria Manual, latest edition.

(2) Critical Environmental Features (CEF): The WQBZ shall extend a minimum of eighty-five feet *(85')* around the outside periphery of natural springs, natural recharge features, and wetlands.

(3) Over-lapping Water Quality Buffer Zones: If two (2) or more WQBZ's overlap, then the widest zone shall govern.

Sec. 32.110 Impervious Cover

(a) Although a certain percentage of impervious cover is discussed and designated within this article, nothing in this article shall release a person from meeting the requirements of the zoning and landscape provisions of the Village's ordinances.

(b) Impervious cover shall include all man-made improvements which prevent the direct infiltration of water into the natural soil, or prevent the migration of the infiltration as base flow.

The following shall be considered as impervious cover:

(1) Roads, pavements, and driveways, except as provided in subsection (c) of this section;

(2) Parking areas;

(3) Buildings;

(4) Pedestrian walkways and sidewalks;

(5) Concrete, asphalt, masonry, surfaces areas, and paving stone surfaced areas;

(6) Swimming pool water surface area; if the backwash system discharge has chlorine concentration greater than 0.1 milligrams per liter.

(7) Densely compacted natural soils or fills which result in a coefficient of permeability less than 1×10^{-6} cm/sec;

(8) All existing man-made impervious surfaces prior to development;

(9) Water quality and stormwater detention basins lined with impermeable materials;

(10) Stormwater drainage conveyance structures lined with impermeable materials;

(11) Interlocking or "permeable pavers";

(12) Fifty percent (50%) of the horizontal surface area of an uncovered deck that has drainage spaces between the deck boards that is located over a pervious man-made surface or over natural ground;

(c) The following will not be considered as impervious cover:

(1) Existing roads adjacent to the development and not constructed as part of the development at an earlier phase;

(2) Naturally occurring impervious features, such as rock out crops;

(3) Landscaped areas and areas remaining in their natural state;

(4) Water quality controls and stormwater detention basins not lined with impermeable materials;

(5) Stormwater drainage conveyance structures not lined with impermeable materials;

(6) Swimming pool water surface area if the backwash system discharge has chlorine concentration less than 0.1 milligrams per liter.

(d) Restrictions:

(1) Impervious cover shall not be constructed within or upon Critical Environmental Features;

(2) Impervious cover shall not be constructed downstream of water quality controls;

(3) Impervious cover shall not be constructed within Water Quality Buffer Zones;

(4) Impervious cover shall not be constructed within the areas designated for on-site irrigation for treated wastewater effluent disposal;

(5) Impervious cover shall not be constructed over on-site wastewater disposal systems.

Sec. 32.111 Water Quality Buffer Zones (WQBZ)

(a) All development activities, including temporary construction activities and landscaping activities, shall be restricted from the WQBZ, except the following development activities may be allowed if approved by the Village:

(1) Roadway and driveway crossings;

(2) Hike and bike trails in accordance with the Comprehensive Plan;

(3) Maintenance and restoration of natural vegetation;

(4) Water quality control monitoring devices;

(5) Removal of trash, debris, pollutants;

(6) Utilities, as subject to the restrictions of subsection (b) of this section;

(7) Fences that do not obstruct flood flows;

(8) Public and private parks and open space, with development in the parks and open space limited to hiking, jogging, or walking trails, and excludes stables and corrals for animals

(9) Private drives to allow access to property not otherwise accessible.

(b) All utilities, other than wastewater shall be located outside the WQBZ except for crossings. Wastewater lift stations shall be located outside the WQBZ. On-site wastewater disposal system shall be located outside the WQBZ. Wastewater trunk lines and lateral lines shall be located outside the WQBZ to the maximum extent practical except for crossings. In no case shall any wastewater line be located less than fifty feet (50') from the center line of an upland waterway except for crossing, unless approved by the Village, and unless the applicant has shown that installation outside of this zone is physically prohibitive or environmentally unsound. All wastewater trunk lines located in the WQBZ shall meet design standards and construction specifications of testing to a zero (0) leakage allowable.

(c) All water quality control discharges and stormwater discharges onto a WQBZ shall:

(1) have diffused, sheet flow;

(2) have peak velocities of less than five (5) fps at the 2-year design storm.

Sec. 32.112 Overland Flow

(a) No untreated stormwater runoff from developed land shall be allowed to flow over critical environmental features that are recharge structures.

(b) To the maximum extent practical, all roof runoff from non-residential buildings shall have down spouts disconnected from the site stormwater drainage system.

(c) To the maximum extent practical, all stormwater drainage shall be treated using overland flow methods to a vegetated buffer. The vegetated buffer shall be designed in accordance with the LCRA Technical Manual.

(d) Drainage patterns shall be designed to the maximum extent practical to prevent erosion, maintain and recharge of local seeps and springs, and attenuate the harm of contaminants collected and transported by stormwater. Overland sheet flow and natural drainage features and patterns shall be maintained to the maximum extent practical, depending on volumes and velocities of runoff for the development, as opposed to concentrating flows in storm sewers and drainage ditches.

(e) Construction of enclosed storm sewers and impervious channel linings are permitted only when the Village, on the basis of competent engineering evidence from the applicant, concludes that such storm sewers or impervious linings are protective of water quality.

(f) If storm sewers are deemed necessary as specified above, the applicant shall design the stormwater drainage system to mitigate its impact on water quality by using structural devices or other methods to prevent erosion and dissipate discharges from outlets wherever practicable, and by directing discharges to maximize diffused overland flow through buffer zones or grass line swales.

(g) Overland flow facilities for the stormwater drainage system shall be designed in accordance with the criteria of the LCRA Technical Manual and the City of Austin, Texas Drainage Criteria Manual (latest edition).

Sec. 32.113 Infiltration

(a) To the maximum extent practical, water quality controls shall be designed to restore the infiltration capacity of pre-development conditions. Infiltration BMP's shall be designed in accordance with the LCRA Technical Manual or the City of Austin, Texas Environmental Criteria Manual.

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

Sec. 32.114 Steep Slopes

(a) All construction and all land disturbing activities shall be limited to those areas with pre-development natural grades of less than twenty-five percent (25%).

(b) Erosion control, terracing and water quality control BMP's shall be designed in accordance with the LCRA Technical Manual.

(c) A cut or fill with a finished gradient steeper than thirty-three percent (33%) shall be stabilized with a permanent structure.

(d) Neither cut into natural grade nor fill over natural grade shall exceed five feet (5').

Sec. 32.115 Vegetation

(a) To the maximum extent practical, landscape shall be preserved in its natural state and shall comply with the requirements of the zoning ordinance of the Village.

(b) To the maximum extent practical, xeriscape and low maintenance vegetation shall be included in all nonresidential development.

(c) To the maximum extent practical, the use of herbicides, pesticides, and fertilizers shall be minimized.

(d) An integrated pesticide and fertilizer management plan shall be submitted to the Village providing information regarding proper use, storage, and disposal of pesticides and fertilizers. The plan shall indicate likely pesticides and fertilizers to be used. The plan shall include two lists of pesticides and fertilizers: (1) those which, due to their chemical characteristics, potentially contribute significantly to water quality degradation; (2) those which, due to the chemical characteristics, potentially would result in minimal water quality degradation.

(e) Vegetative BMP's, such as vegetative filter strips, shall be designed in accordance with the LCRA Technical Manual.

Sec. 32.116 LCRA Permanent Water Quality Controls (WQC)

(a) Permanent water quality controls (WQC) shall be designed and constructed for all new development and all new land disturbing activities to provide the pollutant removal required in Section 32.109 of this article.

(b) Permanent water quality controls (WQC) for existing development and existing land disturbing activities not subject to this article shall comply with the LCRA's "Lake Travis Nonpoint-Source Pollution Control Ordinance" in effect on the date that construction of existing development and existing land disturbing activities began.

(c) Alternative WQC Criteria for Single-Family Use: Development of single-family residential use that meets all the following criteria need not provide permanent WQC:

(1) Minimum lot size of one acre (1ac);

(2) Street and stormwater drainage system network designed without raised curbs (ribbon curbs are allowable) or gutters so that stormwater runoff is treated using diffused, over-land flow methods to a vegetated buffer. The vegetated buffer shall comply with the design and construction criteria of the LCRA Technical Manual.

(3) Impervious cover is less than or equal to twenty percent (20%).

(d) The volume of runoff (water quality volume) to be captured, isolated, and treated by each WQC shall be as required in Section 32.109 of this article. Each WQC shall be sized for the contributing drainage area only to that WQC.

(e) Vegetated filter strips shall be used to the maximum extent practical for the initial treatment of stormwater runoff. Additional structural WQC's shall be provided where a vegetated filter strip alone is not sufficient to reduce developed condition pollutant loads to the levels required in Section 32.109 of this article.

(f) Pollutant loads from all developed areas shall be considered when determining the level of treatment needed to comply with these regulations. Developed areas requiring treatment shall include the total contributing drainage area with:

(1) areas of impervious cover;

(2) lawns using pesticides, herbicides or fertilizers;

(3) landscaping using pesticides, herbicides or fertilizers;

(4) gardens using pesticides, herbicides or fertilizers;

(5) golf courses and play fields using pesticides, herbicides or fertilizers;

(6) areas of on-site spray irrigation with wastewater effluent;

(g) The following areas shall not require water quality treatment:

(1) The full area of existing natural areas or restored natural areas which are restricted from development and pesticides, herbicide, or fertilizer application through a plat note or restrictive covenant and the runoff from which is routed around the WQC. The drainage areas of unrouted runoff from natural areas which blend with the runoff from the developed areas shall be included in the water quality volume calculations.

(2) The full area of the WQC structure.

(3) Swimming pools which do not discharge its filter backwash into the stormwater drainage system.

(4) Impervious surface areas used for stormwater collection and on-site irrigation.

(5) The full area of off-site drainage areas and the runoff from which is routed around the WQC. Unrouted runoff from off-site areas shall be included in the sizing of the WQC. The drainage areas of unrouted runoff from off-site areas which blend with the runoff from the developed areas shall be included in the water quality volume calculations.

(h) Removal efficiencies for WQC's shall be as established in the LCRA Technical Manual or must be approved by the Village based on reports or studies contained in engineering or scientific literature. The efficiency of a second or later WQC in a series shall be reduced by five percentage points for each subsequent WQC in series, except the design of the first WQC in series after a vegetative filter strip shall be based upon the full rated efficiency.

(i) WQC for oil and grease treatment shall be sized only for the surface area of paving.

(j) The maximum drainage area for a single WQC shall be fifty acres (50 ac).

(k) The design of WQC's shall be in accordance with the LCRA Technical Manual.

Sec. 32.117 Erosion Control Requirements

(a) This article shall apply regardless of whether an applicant is required to obtain a permit from the Village in order to conduct such land disturbing or construction activity or not.

(b) Off-Site Borrow, Spoil and Staging Areas: Where applicable, off-site borrow areas, spoil areas and construction staging areas shall be considered as part of the project site and shall be governed by this article.

(c) Related Land Areas: The erosion control requirements of this article shall apply to all related land areas. Additionally, when land disturbing activity occurs on a project, all disturbed land areas related to the project shall have permanent erosion control established before final occupancy of structures located thereon or final acceptance of the subdivision may be obtained. This section applies whether or not a building permit is required.

(d) BMP's: For erosion and sediment control during construction, BMP's shall comply with the LCRA Technical Manual and with the Texas Commission on Environmental Quality (TCEQ) requirements.

(e) Design of Permanent BMP's: For erosion and sediment control, design of permanent BMP's shall be in accordance with the LCRA Technical Manual.

(f) Peak Runoff Rate: The peak runoff rate for developed conditions shall not exceed the peak runoff rate for re-development conditions for the two-year (2-yr) storm event. Peak runoff rate calculations shall comply with the criteria given in the City of Austin, Texas Drainage Criteria Manual (latest edition).

Sec. 32.118 Erosion Hazard Setbacks

Erosion hazard setback determinations shall be made for every stream in which natural channels and waterways are to be preserved. Natural channel banks will be protected by use of the determined setbacks unless a plan to stabilize and protect stream banks is approved by the Village. Where setbacks are used for erosion protection, no building, fence, wall, deck, swimming pool or other structure shall be located, constructed or maintained within the area encompassing the setback.

Erosion hazard setbacks shall be utilized to provide stream bank protection for the waterways within the Village which are to be maintained as natural floodplains. Erosion setbacks may also be required for other waterways within the Village where a future determination is made that the waterway shall be maintained as a natural floodplain.

Sec. 32.119 Non-Residential and Residential Permanent Construction Process

When construction or land disturbing activities are conducted as part of a Non-Residential or Residential construction project in the incorporated limits or in the ETJ of the Village, as part of the application for a building permit or approval or a site development permit or approval, the developer shall submit an erosion and sediment control plan to the Village for approval. Permanent erosion control shall be established prior to the occupancy of any structure. Phased occupancy will be allowed only when there are no outstanding erosion control violations for the project for which the request is made.

When land disturbing activities are conducted on a lot for which a building permit must be issued, the builder shall comply with the following:

(1) Erosion Control Plan: Prior to approval of a building permit or approval for a residential lot by the Village, the builder obtaining the building permit shall submit an erosion and sediment control plan for approval by the Village. No inspection may be performed on a project until Village-approved erosion and sediment control plan is implemented.

(2) Village Inspection: The Village shall inspect the erosion control devices located at a site for compliance with the approved erosion control plan

submitted for such site. If a builder fails to implement or maintain erosion and sediment control devices as specified in the approved erosion and sediment control plan, the Village shall provide such party with written notice of noncompliance identifying the nature of such noncompliance.

(3) Correction Period: The builder shall have twenty-four (24) hours to bring the erosion and sediment control devices into compliance with the intent of the approved erosion and sediment control plan for the site where the violation occurred. Modifications to the approved erosion and sediment control plan may be required to maintain all sediment on-site. Correction shall include sediment clean-up, erosion control device repair, erosion and sediment control device maintenance, and installation of additional erosion and sediment control devices to prevent re-occurrence of the violation. The 24-hour cure period may be extended for inclement weather or other factors at the discretion of the building official.

(4) Extension/Stop Work Order: If the intent of the approved control plan, which is maintaining sediment on-site, is not met, then the builder shall take action within twenty-four (24) hours to control soil eroding from the site and clean up any sediment and shall have one week to submit a new erosion and sediment control plan. Work may continue during the review period. Implementation of this plan will be required within twenty-four (24) hours of plan approval by the Village. If no plan is submitted within one week, then construction activities shall be halted until a new plan is submitted and approved.

(5) Village Re-inspection: At the end of the 24-hour correction period, the Village shall re-inspect the site and may assess a re-inspection fee. If at the time of such re-inspection, the erosion and sediment control devices at the site have not been brought into compliance with the approved erosion and sediment control plan, the Village may issue a stop work order and issue a citation for each violation of the Village's erosion control requirements. When a stop work order has been issued, a re-inspection fee shall be assessed. To obtain a re-inspection for removal of the stop work order, a request must be submitted and a re-inspection fee, as set by the Village, shall be paid.

(6) Removal of Erosion and Sediment Control Devices: Upon issuance of a certificate of occupancy or upon establishing permanent ground cover on a lot, all temporary erosion control devices shall be removed.

Sec. 32.120 Maintenance of Non-point Source Pollution Controls

(a) Maintenance Plans. Prior to NPS Pollution Control Permit issuance by the Village, all applicants shall prepare a plan (NPS Plan) describing the measures necessary to maintain each water quality control required by this article in accordance with the

maintenance guidelines set forth in the LCRA Technical Manual. The NPS Plan must be submitted to and approved by the Village. Upon receiving written approval of the NPS Plan from the Village, the landowner or land user must record in the county deed records and on the plats that the property is subject to a water quality control maintenance plan and to an NPS Pollution Control Permit and must also, upon transferring title to that property, or any subdivided portion thereof, place a restriction in the deed that states that the property is subject to a water quality control maintenance plan and to an Annual Operating Permit.

(b) Maintenance Required. All water quality control measures and their appurtenances shall be maintained by the applicant or subsequent landowner(s) or land user(s) pursuant to the approved NPS Plan. All landowners and land users not within a utility district shall form a Maintenance Association (MA) or Home Owner's Association (HOA), or Property Owner's Association (POA), collectively referred herein as "Association" in accordance with this section prior to permit issuance. All associations shall post financial security or create a maintenance fund for the purpose of maintaining all water quality controls required by this article. The maintenance of all BMPs shall be in accordance with the NPS Pollution Control Permit and the approved NPS Plan.

(c) Requirements for Association: The applicant shall submit to the Village the approved articles of association for the Association, as well as a map showing the boundaries of its jurisdiction. The Association shall include the following general powers which are reflected in the articles of association:

(1) Own and convey property;

(2) Operate and maintain common property, specifically the water quality controls;

(3) Establish rules and regulations;

(4) Assess members maintenance fees and enforce said assessments;

(5) Sue and be sued;

(6) Contract for services to provide operation and maintenance;

(7) If the Association is a homeowners' association, it shall have as members all the homeowners, lot owners, property owners, or unit owners;

(8) The Association shall exist in perpetuity;

(9) It shall be clearly stated in the articles of association of the Association that:

(A) It is the responsibility of the Association to operate and maintain

the water quality controls;

(B) The water quality controls are owned by the Association or described therein as common property;

(C) There is a method of assessing and collecting the assessment for operation and maintenance of the water quality controls; and

(D) Any amendment that would affect the water quality controls must be approved by the Village.

(d) Phased Projects. If an Association is proposed for a project which will be developed in phases and subsequent phases will utilize the water quality controls, the Association shall have the ability to accept future phases into the Association.

Sec. 32.121 Operation of Non-point Source Pollution Controls

Owners or operators of water quality controls on the site shall obtain an annual operating permit, as required in Section 32.127 of this article.

Sec. l3.122 Wastewater Restrictions

(a) Construction of wastewater facilities within a WQBZ shall comply with the restrictions given in Section 32.111 of this article.

(b) Wastewater treatment by land application shall meet the following requirements:

(1) Must have at least eight thousand (8,000) square feet of irrigated land for each living unit equivalent (LUE), or

(2) Must have at least seven thousand (7,000) square feet of irrigated land for each LUE if the irrigated land has six inches (6") or more of topsoil.

(c) Wastewater treatment by land application is prohibited:

(1) On a slope with a gradient of more than fifteen percent (15%);

(2) In a WQBZ or in or upon a CEF;

(3) In a 100-year floodplain; or

(4) During wet weather conditions.

Sec. 32.123 Environmental Assessments

(a) An applicant shall file an environmental assessment for proposed development located:

(1) Over aquifer recharge features;

(2) Over critical environmental features;

(3) In a WQBZ or in or upon a CEF;

(4) In a 100-year flood plain; or

(5) On a tract with a gradient of more than twenty-five percent (25%);

(b) The environmental assessment shall comply with the City of Austin, Texas Environmental Criteria Manual (latest edition) and shall include:

(1) A hydrogeologic report,

(2) A vegetation report, and

(3) A wastewater report.

Sec. 32.124 Summary of Review and Approval Process

Applications for NPS pollution control permits and approvals shall comply with the following Village administrative processes:

(1) Zoning Process: Compliance with the Village's zoning regulations shall be demonstrated as follows:

(A) Concept Plan: Applicant shall submit general layouts and concepts of the non-point source pollution prevention management system.

(B) Site Plan: Applicant shall submit detailed layouts, designs, design criteria, and computations of the non-point source pollution prevention management system.

(2) Subdivision Process: Compliance with the Village's subdivision regulations shall be demonstrated as follows:

(A) Preliminary and Final Plat: Applicant shall submit detailed layouts, designs, design criteria, and computations of the non-point source pollution prevention management system.

(3) Building Permit, Site Development Permit: Applicant shall submit the following documents in the submittal to the Village for the application for the building permit or approval or the site development permit or approval in compliance with the Village's ordinances:

(A) Detailed construction drawings and specifications of the water quality control improvements to be constructed;

(B) Temporary and permanent erosion and sediment control plan;

(C) Non-point source pollution control plan;

(D) Approved NPDES/TPDES permit and associated SWPPP;

(F) U.S. Army Corps of Engineers' Section 404 Permit (for record information only);

(G) Non-point source pollution control permit application in accordance with Section 32.126 of this article;

(H) Fiscal security for the construction of the water quality controls and the temporary erosion and sedimentation controls in accordance with Section 32.136 of this article;

(I) U.S. Fish and Wildlife Service Section 10a permit. (for record information only).

(J) Water Quality Control Plan (or Stormwater Pollution Prevention Plan), Section 32.128

(4) During construction, the following documentation shall be submitted to the Village:

(A) Notice of Intent (NOI) (for record information only);

(B) Notice of Termination (NOT) (for record information only);

(C) Engineer's Concurrence Letter.

(5) The following documents shall be submitted to the Village with the application for approval of the final plat, in compliance with the Village's subdivision regulations

(A) documentation of "as-constructed" conditions of the water quality control improvements;

(B) descriptions of the dedicated easements;

(C) description of the dedicated water quality control public

improvements; and

(D) application for annual operating permit, in accordance with Section 32. 127 of this article.

(6) During construction within the Village's ETJ, not subject to the Village subdivision ordinances process, but is subject this article, the following documentation shall be submitted to the Village:

(A) Non-point source pollution control permit application in accordance with Section 32.126 of this article;

(B) Temporary and permanent erosion and sediment control plan in accordance with Section 11.129 of this article;

(C) Water quality control plan in accordance with Section 32.128 of this article.

Sec. 32.125 Charges and Fees

(a) The Village may adopt reasonable fees for reimbursement of costs of implementing its non-point source pollution prevention management program and the cost of implementing this article, which costs may include, but not be limited to, the following:

(1) Fees for monitoring, inspection, and surveillance procedures including the cost of collecting and analyzing discharges and reviewing monitoring reports submitted by dischargers;

(2) Fees for spill and release reports and responding to spills and releases of oil, hazardous and extremely hazardous substances, and other pollutants;

(3) Application and review fees for permits and approvals;

(4) Application and review fees for submittals associated with the concept plan, preliminary plat, site plan, construction drawings for public improvements, and final plats;

(5) Re-application and re-review fees;

(6) Inspection fees;

(7) General Consultation with the applicant and with the Village concerning the applicant's development; and

(8) Other fees as the Village may deem necessary to carry out the requirements

contained in this article. These fees relate solely to the matters covered by this article and are separate from all other fees, fines, and penalties chargeable by the Village.

(b) Fees and charges shall be as shown in the Village's Code of Ordinances, and may be amended from time to time. It is the developer's or owner's responsibility to obtain and comply with the Village's current fee schedule and submission requirements.

Sec. 32.126 Non-Point Source Pollution Control Permit

(a) Authorized Activities-Permit Required:

(1) Except as provided in subsection (b) below, no landowner or land user subject to this article may commence or conduct development in the watersheds which lie within the Village and in its ETJ without first obtaining an NPS pollution control permit from the Village. Prior to commencing development and prior to the Village approving an application for a building permit or a site development permit, the landowner or land user controlling or using the site and desiring to undertake development subject to this article shall pay an application fee and submit a complete application for a permit. By submitting an application, the applicant is authorizing the Village to enter the site to obtain information required for the review of the permit application. The Village will issue an NPS pollution control permit upon the applicant's submission of a complete permit application, payment of the application fee, and upon the Village's approval of the permit application.

(2) An NPS pollution control permit shall be required for all re-development for which a water quality control is required to be constructed or modified in accordance with Section 32.116 of this article.

(3) An NPS pollution control permit shall be required for all utility construction.

(b) Authorized Activities-No Permit Required:

(1) Single-family Residences: No permit is required for new construction of a single-family residence on a single-family lot which is not part of a subdivision. Landowners or land users undertaking such construction shall, however, utilize the measures for controlling erosion and sedimentation and for controlling non-point source pollution as described in the LCRA Technical Manual during the construction process. Such landowners or land users shall, at the time of application for building permits from the Village, demonstrate the erosion and sedimentation control measures and the non-point pollution control measures that will be used.

(2) Existing Development: No permit is required for existing development on the effective date of this article. If, however, improvements or additions are made after the date of the approval of this article which require the addition of a new water quality control or the modification to an existing water quality control, then the landowner or land user must obtain a permit and demonstrate that the pollution resulting from the development will meet the performance standards set forth in Section 32.109 of this article.

(3) Final Plats: Landowners or land users developing sites for which final subdivision plats have been approved by the Village prior to the effective date of this article do not need a permit. Such landowners or land users shall, however, comply with Section 32.117 of this article regarding erosion and sedimentation control. Such landowners or land users shall, at the time of application for building permits from the Village, demonstrate the erosion and sedimentation control measures that will be used.

(4) Utility Maintenance: No permit is required for routine maintenance and installation of utility lines if a landowner or land user complies with the guidelines set forth in the LCRA Technical Manual for such activity.

(c) Processing of NPS Pollution Control Permit Applications

(1) Preparation of Permit Applications: Applicants who must obtain an NPS Pollution Control Permit shall prepare the permit application in accordance with the LCRA Technical Manual.

(2) Review and Approval of Permit Applications:

(A) General. The Village shall review applications for NPS Pollution Control Permit in conjunction with the review of applications for development permits and subdivision approval.

(B) Initial Review. Once the application is accepted by Village as being a complete submittal, the Village will conduct a technical review of the permit application. The technical review period will commence upon Village acceptance of the complete permit application and will continue for a period of time not to exceed thirty (30) calendar days. The applicant will be promptly notified in writing of any additional information that may be necessary for a complete technical review.

(C) Subsequent Reviews. If more information is needed to complete the technical review, an applicant shall have thirty (30) calendar days to submit additional information or revise the application. If the applicant provides the additional information within the thirty (30) day period, the technical review shall be extended for no more than fifteen (15) calendar days. If the applicant does not provide the

additional information within the thirty (30) day period, the Village may withhold approval of any preliminary or final plats or site plans or approvals until such time as the additional information is submitted by the applicant.

(3) Application Fees. The application and review fee and charges shall be as shown in the Village's Code of Ordinances.

(4) Fiscal Security. Proof of fiscal security shall be provided with the NPS Pollution Control Permit. Fiscal security shall be provided in accordance with the requirements in Section 32.137 of this article.

(5) Permit Conditions. All permits shall require the permittee to:

(A) Notify the Village within forty-eight (48) hours before commencing any development;

(B) Obtain a permit amendment from Village prior to modifying the approved NPS pollution controls (BMPs); however, no permit amendment is required for minor field adjustments of temporary erosion controls;

(C) Install all NPS pollution controls (BMPs) as identified in the approved permit;

(D) Comply with the requirements of this article regarding maintenance plans;

(E) Repair any situation or erosion damage resulting from development;

(F) Inspect all temporary erosion and sedimentation controls after each rain of one-half inch (0.5") or more, and at least once each week, and make needed repairs;

(G) Allow the Village 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;

(H) Designate a location on the site for the posting of notices;

(I) Keep a copy of the permit and all development plans on the site or with the permittee's designated representative;

(J) Upon completion of development, the permitee's registered professional engineer shall certify in writing to the Village that the NPS pollution controls (BMPs) were constructed and maintained in

accordance with the permit conditions and with this article;

(K) Promptly notify the Village in writing of any change in the name, address, or telephone number of the permittee;

(L) Assign the NPS pollution control permit and all rights and obligations associated there with to the land owner, operator, Association or other entity as applicable, upon completion of construction of the development if the permit is not already in the name of the entity responsible for the BMPs;

(M) Pay all fees associated with the permit application in a timely manner;

(N) Perform all activities in accordance with the federal, state or local laws or ordinances;

(0) Indemnify and hold the Village and its authorized agents and its authorized consultants harmless from any and all claims, demands, damages, actions, costs and charges to which the Village may become subject and to which the Village may have to pay by reason of injury to any person or property, or loss of life, or loss of property, resulting from, or in any way connected with the permittee's actions under this Permit.

(P) Not perform work that is not authorized or that is not directly addressed in the permit application submitted to the Village;

(Q) Not amend or alter any legal rights or benefits previously granted to or vested in the Village;

(R) Not amend or alter any terms and conditions reached between the Village and the applicant.

(6) Duration. Except as provided in subsection 32.126 (c) (7) of this article, NPS pollution control permits shall be valid for the life of the site development permit or the building permit for the development.

(7) Termination for Nonuse. A NPS pollution control permit will be terminated by the Village should the building permit or the site development permit terminate or be terminated. Commencement of development means clearing the site and performing initial or rough grading of the improvements. If the Village terminates a permit for nonuse and the fiscal security is still in effect, the Village may call on the permittee's security in order to provide permanent stabilization of the site.

Sec. 32.127 Annual Operating Permit

(a) General Requirements. The owners or operators of all new water quality controls for multi-family residential development, for single-family subdivision development, and for non-residential development shall obtain an annual operating permit. The owner or operator shall be responsible for the proper operation and maintenance of the control and for annual permit renewal. The first operating permit will be issued by the Village upon:

(1) The completion of construction, if applicable;

(2) Inspection of the control by the Village after review of the maintenance plan accompanying the design engineer's concurrence letter at the completion of construction;

(3) Final inspection approval by the Village;

(4) The issuance of a certificate of compliance or a certificate of occupancy by the Village, if applicable; and

(5) Payment of the permit fee.

(b) Operating Permit Procedures. All water quality controls shall be maintained in accordance with this article, and each permitted control will be inspected each year by the Village to confirm that proper maintenance, as described in the NPS maintenance plan, has occurred prior to renewal of the permit. An operating permit shall be required for developed sites with existing water quality control only when new development or re-development occurs.

(c) Operating Permit Information Requirements. The permit application shall include the following elements and shall be submitted to the Village with the site plan for new construction, or not later than thirty (30) calendar days prior to the renewal date shown on an existing permit:

(1) Name and address of the water quality control;

(2) Name, title and business phone number of the owner or operator;

(3) Single point of contact name, phone number, and fax number;

(4) Mailing address of the owner or operator;

(5) Site plan number on file with the Village for the control;

(6) Previous operating permit;

(7) Signature block for Village approval;

(8) Special conditions required by restrictive covenant, or by agreement at a condition of Village approval;

(9) Maintenance records and date of last maintenance;

(10) Name of Contractor who performed the required maintenance;

(11) Results of required maintenance, including actions take, materials removal, disposal location, components replaced.

(d) Operating Permit Renewal

(1) It is the responsibility of the permittee to apply to the Village for renewal of the permit no later than thirty (30) calendar days before the existing permit expires. The application shall be accompanied by payment of the appropriate renewal fee, updated information concerning ownership or facility operation and enforcement status. Upon receipt of all information and fees, including a favorable inspection and maintenance report, the Village will renew the permit for a period of one (1) year.

(2) Any repair work or modifications of a control not specified in the maintenance plan shall require the permittee engineer's concurrence letter, prior to renewal of the permit.

(3) Permit renewal will be withheld if there is pending enforcement action against the permittee based on any violations of water quality regulations at the site.

(e) Permit Transfer. The transfer of the operating permit shall require the completion of a new permit application, and shall be submitted not later than thirty (30) calendar days after transfer of ownership or operational responsibility of the control.

(f) Enforcement. Failure to comply with the provisions of the operating permit is a violation of the Village's Code of Ordinances.

Sec. 32.128 Water Quality Control Plan

(a) All applications for developments and construction required to provide water quality controls shall include a water quality control plan. The plan shall include all information necessary for the controls and shall be labeled "Water Quality Control Plan" and sealed by the applicant's engineer. The plan shall include the following:

(1) Location of proposed controls, type of controls, and location of monitoring sites if required;

(2) Delineation of water quality and access easements or lots;

(3) Delineation of retention or irrigation access;

(4) Details of proposed water quality controls;

(5) Sequencing of construction;

(6) Temporary erosion and sedimentation controls, in accordance with Section 32.129 of this article;

(7) Impervious cover calculations;

(8) Delineation of water quality drainage areas; and

(9) Record on the plot that the property is subject to a water quality control maintenance plan, an NPS Pollution Control Permit, and an annual operating permit, if applicable.

(b) The applicant shall submit in addition to the water quality control plan, the following information in a "Water Quality Control Plan Engineer's Report:"

(1) The methodology and water quality control strategy proposed to achieve the target pollutant concentrations;

(2) Calculations illustrating the undeveloped and developed pollutant concentrations expected for the proposed development;

(3) Calculations illustrating expected pollutant concentrations reductions for the controls proposed; and

(4) Special conditions approved by the Village for installation or maintenance of proposed controls used to achieve the target pollutant reductions.

Sec. 32.129 Temporary and Permanent Erosion and Sediment Control Plan

(a) In order to clearly identify all temporary and permanent erosion and sediment control measures to be installed and maintained throughout the duration of the project, a detailed erosion control plan shall be required prior to the issuance of the site development permit or the building permit in accordance with the requirements set forth in the LCRA Technical Manual.

(b) Each developer shall implement and maintain the erosion and sediment control measures shown on its approved erosion control plan in order to minimize the erosion and the transport of silt, earth, topsoil, etc., by water runoff or construction activities,

beyond the limits of the developer's site onto Village streets, drainage easements, drainage facilities, storm drains of other Village property prior to beginning any land disturbing activity.

(c) It shall be an offense for a developer or a third party performing work on a project to violate any of the requirements of this article, including, but not limited to, the following:

(1) Conducting any land disturbing or construction activity without an approved erosion and sediment control plan for the location where the violation occurred.

(2) Failing to install erosion and sediment control devices or to maintain erosion and sediment control devices throughout the duration of land disturbing activities, in compliance with the approved erosion and sediment control plan for the location where the violation occurred.

(3) Failing to remove sedimentation that has been transported to off-site location that is a direct result of land disturbing activities where such off-site sedimentation results from the failure to implement or maintain erosion and sediment control devices as specified in an approved erosion and sediment control plan for the location where the violation occurred.

(4) Allowing sediment laden water resulting from below ground installations to flow from a site without being treated through an erosion control device.

(5) Failing to repair damage to existing erosion control devices, including replacement of existing grass or sod.

(d) Written notice of violation shall be given to the developer or its job site representative as identified in the erosion and sediment control plan for a site. Such notice shall identify the nature of the alleged violation and the action required to obtain compliance with the intent of the approved erosion control plan.

Sec. 32.130 Variances

(a) General: Where the Village finds that undue hardships will result from strict compliance with a certain provision(s) of this article, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve a variance from portions of these regulations so that substantial justice may be done and the public interest is secured, provided that the variance shall not have the effect of nullifying the intent and the purpose of these regulations, and further provided that the Village shall not approve a variance unless it shall make findings based upon the evidence presented to it in each specific case that:

(1) Granting the variance will not be detrimental to the public safety, health or

welfare, and will not be injurious to other property or to the owners of other property, and the variance will not prevent the orderly development or use of other property in the vicinity;

(2) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, and are not applicable generally to other property;

(3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if these regulations are strictly enforced;

(4) An alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein.

Such findings of the Village together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the meeting of the Village council at which a variance is considered. A variance from any provision of this article may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the property owner or developer, standing alone, shall not be deemed to constitute undue hardship.

(b) Conditions. In approving a variance, the Village may require such conditions as will, in its judgment, secure substantially the purposes described in Section 32.103 and 32.104 of this article.

(c) Procedures:

(1) A petition for a variance shall be submitted in writing by the applicant before the required application or submittal is submitted for the consideration of the Village's planning and zoning commission . The petition shall state fully the grounds for the application, and all of the facts relied upon by the petitioner.

(2) Where a hardship is identified pursuant to this article which requires issuance of a variance from a provision in this article, the Village's planning and zoning commission may recommend conditional variance from the provisions in this article in conjunction with approval by the Village council . A conditional variance from this article may receive final approval provided that no new information or reasonable alternative plan exists which, at the determination of the Village council voids the need for a variance. All variances shall have final approval or disapproval by the Village council.

Sec. 13.131 Citizen Complaint

(a) A citizen may file a written complaint or report to the Village of any spills, releases, illicit connections, other instances of anyone discharging pollutants into the stormwater drainage system or into waters of the United States; or into waters of the State, and any other violation of this article of which they become aware.

Sec. 32.132 Release Reporting and Cleanup

(a) The person in charge of any facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing, or any other release of any of the following quantities of any of the following substances that may flow, leach, enter, or otherwise be introduced into the stormwater drainage system or into waters of the United States, or into waters of the State, shall immediately telephone and notify the Village concerning the incident:

(1) An amount equal to or in excess of a reportable quantity of any hazardous substance, as established under 40 CFR Part 302;

(2) An amount equal to or in excess of a reportable quantity of any extremely hazardous substance, as established under 40 CFR Part 355;

(3) An amount of oil that either (a) violates applicable water quality standards, or (b) uses a film or sheen upon or discoloration of the surface of the water or an adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline; or

(4) Any harmful quantity of any pollutant.

(b) The immediate notification required by this article shall include the following information:

(1) The identity or chemical name of the substance released, and whether the substance is an extremely hazardous substance;

(2) The exact location of the release, including any known name of the waters involved or threatened and any other environmental media affected;

(3) The time and duration (thus far) of the release;

(4) An estimate of the quantity and concentration (if known) of the substance released;

(5) The source of the release;

(6) Any known or anticipated health risks associated with the release and,

where appropriate, advice regarding medical attention that may be necessary for exposed individuals;

(7) Any precautions that should be taken as a result of the release;

(8) Any steps that have been taken to contain and clean up the released material and minimize its impacts; and

(9) The names and telephone numbers of the person or persons to be contacted for further information.

(c) Within fifteen (15) days following such release, the responsible person in charge of the facility, vehicle, or other source of the release shall, unless waived by the Village submit a written report containing each of the items of information specified above in this article, as well as the following additional information:

(1) The ultimate duration, concentration, and quantity of the release;

(2) All actions taken to respond to, contain, and clean up the released substances, and all precautions taken to minimize the impacts;

(3) Any known or anticipated acute or chronic health risks associated with the release;

(4) Where appropriate, advice regarding medical attention necessary for exposed individuals;

(5) The identity of any governmental/private sector representatives responding to the release; and

(6) The measures taken or to be taken by the responsible person(s) to prevent similar future occurrences.

(d) The notifications required by this article shall not relieve the responsible person of any expense, loss, damage, or other liability which may be incurred as a result of the release, including any liability for damage to the Village, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to this article or to state or federal law.

(e) Any person responsible for any release as described in this article shall comply with all state, federal, and any applicable local law requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release.

(f) Any person responsible for a release described in this article shall reimburse the Village for any and all costs incurred by the Village in responding to the release.

Sec. 32.133 Access for Maintenance and Monitoring

To provide necessary access for maintenance and monitoring, all water quality controls shall be contained within a water quality easement or restricted, platted lot with an access easement connecting the water quality easement to a public right-of-way. The easement documents shall note that water quality restrictions exist on the property or easement and that any alternative use or alteration must be approved by the Village. Access to water quality controls shall comply with the LCRA Technical Manual.

Sec. 32.134 Compliance Monitoring-Right of Entry and Inspection During Construction

(a) Right of Entry. Any owner who has filed a permit application or received a permit under this article shall allow entry by the Village on the site for the purposes of inspection and monitoring. Employees and agents of the Village 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 article. They shall notify the owner or his designated agent prior to entering the site for inspection purposes.

(b) Predevelopment Inspection. After permit issuance, but before the installation of temporary erosion and sedimentation controls and before development commences, the applicant shall provide a written request to the Village for an inspection of the temporary erosion controls and water quality controls. This predevelopment inspection will be attended by the Village engineer or water quality consultant who will determine whether the temporary erosion and sedimentation controls and water quality controls will be in compliance with the permit. If the Village does not conduct the predevelopment inspection within five *(5)* working days of receipt of the request for inspection, the applicant may proceed with development.

(c) Inspections During Development. During development, the Village will inspect the site to ensure that temporary and permanent erosion controls are being maintained and that the permanent NPS pollution controls (BMPs) are being constructed in accordance with the requirements of this article and with the approval NPS pollution control plan.

(d) Final Inspection. Upon completion of development, the Village will conduct a final inspection of the permanent NPS pollution controls installed. This final development inspection must be attended by the permittee, Village engineer or water quality consultant , the design engineer, contractor, and field engineer. The Village will determine whether the NPS pollution controls are in compliance with the NPS pollution control permit.

(e) Developer shall confirm that water quality controls are constructed in conformance with the approved design by provided a concurrence letter certified by the permittee's design engineer.

(f) The permittee's fiscal security will be released in accordance with Section 32.136 of this article.

Sec. 32.135 Compliance Monitoring-Right of Entry for Inspection and Sampling Upon Project Completion

(a) The Village shall have the right to enter the premises of any site discharging stormwater to the stormwater drainage system or to water quality controls or to waters of the United States or to waters of the State to determine if the discharger is complying with all requirements of this article, and with any state or federal discharge permit, limitation, or requirement. Dischargers shall allow the Village ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and for the performance of any additional duties. Dischargers shall make available to the Village, upon request, any Water Quality Control Plans, Stormwater Pollution Prevention Plans (SWPPPs), operating permits, site development permits, construction permits, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, Notices of Intent, and any other records, reports, and other documents related to compliance with this article and with any state or federal discharge permit.

(1) Where the owner has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Village will be permitted to enter without delay for the purposes of performing its responsibilities.

(2) The Village shall have the right to set up on the discharger's property, or require installation of discharger's operations.

(3) The Village may require any owner whose property discharges to the stormwater drainage system or to waters of the United States or to waters of the State to conduct specified sampling, testing, analysis, and other monitoring of its stormwater discharges, and may specify the frequency and parameters of any such required monitoring.

(4) The Village may require the owner to install monitoring equipment as necessary at the discharger's expense. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the discharger at the written or verbal request of the Village and shall not be replaced. The costs of removal and clearing such access shall be borne by the owner.

(6) Unreasonable delays in allowing the Village access to the discharger's premises shall be a violation of this article.

(b) Search Warrants. If the Village has been refused access to any part of the premises from which stormwater is discharged, and the Village is able to demonstrate probable cause to believe that there may be a violation of this article or any state or federal discharge permit, limitation, or requirement, or that there is a need to inspect and sample as part of a routine inspection and sampling program of the Village designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Village may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 32.136 Fiscal Security

(a) Fiscal security shall be provided to the Village by the owner or developer for the construction of temporary and permanent erosion and sedimentation controls and for water quality controls, under the following considerations:

(1) Fiscal security shall be provided if the development is single-family subdivision, or multifamily residential or non-residential development; and

(2) Fiscal security shall be provided for new construction of water quality controls and for re-development modifications to existing water quality controls; and

(3) Fiscal security shall be provided if the application to construct or modify the water quality controls under a site development permit or approval or a building permit or approval, is submitted to the Village after the development application is submitted to the Village for the Village's approval of the final plat.

(b) Fiscal security shall be provided to the Village as part of the application for an NPS Pollution Control Permit or as part of the application for a construction permit or approval if a NPS Pollution Control Permit is not required.

(c) The amount of the fiscal security shall be determined and certified by the developer's engineer's and shall be equal to the full construction cost of the temporary and the permanent water quality controls, including erosion and sediment controls.

(d) Fiscal security for the water quality controls shall be in the form of cash escrow or a cashier's check or money order in the specified amount. If authorized by the Village, a performance bond or a letter of credit may be considered by the Village, as security for the construction of the controls. The issuer of any surety bond and letter of credit shall be subject to the approved of the Village.

(1) Performance Bond. If the Village authorizes the developer to post a performances bond as security, the performance bond shall comply with the following requirements:

(A) All performance bonds shall be in the forms and formats acceptable to the Village;

(B) All performance bonds shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in circular 570 (amended) by Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury; and

(C) All performance bonds shall be signed by an agent accompanied by a certified copy of the authority to act; and

(D) All performance bonds shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Texas to issue performance bonds for the limits and coverage required.

If the surety on any performance bond furnished by the owner is declared to be bankrupt or becomes insolvent or its right to do business is terminated in the State of Texas or the surety ceases to meet the requirements to be listed in Circular 570, the owner shall within twenty (20) calendar days thereafter substitute another performance bond and surety, both of which must be acceptable to the Village.

(2) Letter of Credit. If the Village authorizes the developer to post a letter of credit as security, the letter of credit shall:

(A) Be irrevocable; and

(B) Be for a term sufficient to cover the completion, maintenance, and warranty periods, but in no event less than two (2) years; and

(C) Require only that the Village present the issuer with a sight draft and a certificate signed by an authorized representative of the Village certifying to the Village's right to draw funds under the letter of credit.

(e) As portions of the water quality controls are completed in accordance with the LCRA Technical Manual and the approved engineering plans and the applicable permits, the owner may make application to the Village to reduce the amount of the original security. If the Village is satisfied that such portion of the improvements has been completed in accordance with Village standards, the Village may (but is not required to) cause the amount of the letter of credit to be reduced by such amount that the Village deems appropriate, so that the remaining amount of the security adequately insures the completion of the remaining improvements.

(f) Upon approval by the Village of all required construction of the water quality controls, the Village will authorize a reduction in the security to ten percent (10%) of the original amount of the security if the property owner is not in violation of the permit requirements. The remaining security shall be security for the owner's covenant to maintain the required controls and to warrant that the improvements are free from defects for two (2) years thereafter.

Sec. 32.137 Supplemental Enforcement Action

(a) Performance Bonds. The Village may, by written notice, order any owner or operator of a source of pollution discharge associated with construction or industrial or commercial activity to file a satisfactory bond, payable to the Village in a sum not to exceed a value determined by the Village to be necessary to achieve consistent compliance with this article, any order issued hereunder, any required Best Management Practice, and/or any SWPPP provision. The Village may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other Village permit or approval necessary to commence or continue construction or any industrial activity at the site, or to assume occupancy, until such a performance bond has been filed.

(b) Liability Insurance. The Village may, by written notice, order any owner or operator of a source of stormwater discharge associated with construction or industrial or commercial activity to submit proof that it has obtained liability insurance, or other financial assurance, in an amount not to exceed a value determined by the Village, that is sufficient to remediate, restore, and abate any damage to the stormwater drainage system, to the waters of the United States, to the waters of the State or any other aspect of the environment that is caused by the discharge.

Sec. 32.138 Stop Orders

Whenever any work is being done contrary to the provisions of this article, the Village may order the work stopped by notice in writing (referred to as a "Stop Work Order") served on any persons engaged in the doing or causing such work to be performed. The stop work order will be posted on the property adjacent to the activity in question, and any such person shall forthwith stop work until authorized by the Village in writing to proceed with the work.

Sec. 32.139 Permit Revocation

A violation of this article shall authorize the Village to initiate proceedings to cancel any permit or any other type of approval given under this article. If a permit is canceled, no further work shall be done on the project made the subject of the permit until the violation has been cured and new submittals under this article, as required by the Village, have been made and approved in accordance with the provisions of this article and a new permit has been issued.

Sec. 32.140 Denial of Approvals and Permits

A violation of this article shall be grounds for the Village to deny any and all approvals or permits under the Village's Code of Ordinances sought by a person violating this article, until the violations are corrected.

DIVISION 4: GENERAL PROVISIONS

Sec.32.142 Construction: The terms and provisions of this article shall not be construed in a manner to conflict with *the Texas Local Government Code, the Texas Water Code and the Texas Health & Safety Code,* and if any term or provision of this article shall appear to conflict with any term, provision or condition of these codes, such article term or provision shall be read, interpreted and construed in a manner consistent with and not in conflict with such Chapter, and, if possible, in a manner to give effect to both. The standard and accepted rules of statutory construction shall govern in construing the terms and provisions of this article.

Sec.32.143 Amendment and Repeal: All ordinances or parts thereof conflicting or inconsistent with the provisions of this article as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this article and any other code or ordinance of the Village, the terms and provisions of this article shall govern.

Sec.32.144 Severability: If any provision of this article or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

Sec.32.145 Effective Date: This article shall take effect immediately from and after its passage and publication of its enacting ordinance in accordance with the provisions of *Chapter 52 of the Texas Local Government Code.*

Sec.32.146 Open Meetings: It is hereby officially found and determined that the meeting at which the enacting ordinance of this article is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Chapter 551 of the Texas Government Code.*

Sec.32.147 Penalty and Injunctive Relief: Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the requirements thereof, within the Village limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars ($2000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein. Any person who violates this article is subject to suit for injunctive relief as well as prosecution to seek penalties for the violations.

PASSED AND APPROVED on the 19th day of October 2004.

JAN YENAWINE,
MAYOR OF THE VILLAGE OF VOLENTE

ATTEST:

JENNIFER ZUFELT, CITY SECRETARY