

**REGULATIONS OF HARRIS COUNTY, TEXAS**

**FOR**

**STORMWATER  
QUALITY MANAGEMENT**



**AS**

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**HARRIS COUNTY  
ENGINEERING DEPARTMENT**

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# **REGULATIONS OF HARRIS COUNTY, TEXAS FOR STORMWATER QUALITY MANAGEMENT**

## **PART A – GENERAL PROVISIONS**

### *Section 1 – In General*

#### **SECTION 1.01 – AUTHORITY**

The Commissioners Court of Harris County, Texas adopts these Regulations in its capacity as the governing body of Harris County and the Harris County Flood Control District. The authority of Harris County to adopt these Regulations and the contents hereof is derived from Texas Local Government Code, Chapter 573, as amended. These Regulations may be amended at any time by a majority of Commissioners Court.

#### **SECTION 1.02 – AREA COVERED BY REGULATIONS**

These Regulations apply in all unincorporated areas of Harris County, Texas.

#### **SECTION 1.03 – PURPOSE**

The purpose of these Regulations is to provide land use controls necessary to comply with Harris County's TPDES stormwater permit, to protect human life and health and to avoid increasing pollutant levels associated with stormwater.

#### **SECTION 1.04 – CONSTRUCTION OF REGULATIONS**

- (a) The Code Construction Act of Texas (Texas Government Code, Chapter 311) applies for construing these rules unless an alternative instruction, definition, or application is contained herein.
- (b) The word "shall" is mandatory and not discretionary as used in these Regulations.
- (c) These Regulations are to be liberally construed to give affect to its purpose and intent.
- (d) All terms used in the masculine shall refer to the feminine and vice versa.

## **SECTION 1.05 – ABROGATION AND GREATER RESTRICTIONS**

Except as expressly provided, these Regulations are not intended to repeal, abrogate, or impair any existing laws, regulations, easements, covenants, or deed restrictions. Where these Regulations and other legal requirements conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

## **SECTION 1.06 – REMEDIES NOT EXCLUSIVE**

The remedies listed in these Regulations are not exclusive of any other remedies available under any applicable federal, state, or local law, and it is within the discretion of Harris County to seek cumulative remedies. The suspension, revocation, cancellation, or denial of a SWQ Permit issued under these Regulations shall not prohibit the imposition of any civil or criminal penalty. The imposition of a civil or criminal penalty shall not prohibit any other remedy and shall not prohibit the suspension, revocation, or denial of any SWQ Permit issued under these Regulations.

## **SECTION 1.07 – ACCESS TO FACILITIES**

The County Engineer or his designee, or investigators from Harris County Pollution Control Services, may enter any building or premises at reasonable times to inspect or investigate conditions relating to water quality or to perform their duties under these Regulations.

## **SECTION 1.08 – SEVERABILITY**

The provisions of these Regulations are severable. If any word, phrase, clause, sentence, section, provision, or part of these Regulations should be invalid or unconstitutional, it shall not affect the validity of the remaining portions and it is hereby declared the intent of the Commissioners Court that these Regulations would have been adopted as to the remaining portions, regardless of the invalidity of any part.

## ***Section 2 – Definitions***

The following words and terms, when used in these Regulations, shall have the following meanings, unless the context clearly indicates otherwise.

### **SECTION 2.01 – ACCESSORY STRUCTURE**

“Accessory structure” means a non-commercial structure of the type typically associated with a single-family dwelling unit including, but not limited to, a garage, carport or barn.

### **SECTION 2.02 – APPLICANT**

“Applicant” means the person required to obtain a Stormwater Quality Permit under these Regulations or their agent. For the purposes of these Regulations, the person required to obtain a Stormwater Quality Permit shall be the owner of the real property.

### **SECTION 2.03 – AS-BUILT CERTIFICATION**

“As-Built Certification” means a form supplied and approved by the County Engineer certifying that Stormwater Quality Features are completed and ready to use.

### **SECTION 2.04 – BEST MANAGEMENT PRACTICES (BMP)**

“Best management practices” or “BMP” means the scheduling of activities and maintenance procedures, the creation of non-structural and structural controls, and other management practices to prevent or reduce pollution discharging into the MS4 and the waters of the United States.

### **SECTION 2.05 – CERTIFICATE OF COMPLIANCE**

“Certificate of Compliance” means a certificate issued by the County Engineer indicating a site complies with the Regulations of Harris County, Texas for Stormwater Quality Management as of a specific date.

## **SECTION 2.06 – CERTIFICATE OF NON-COMPLIANCE**

“Certificate of Non-compliance” means a certificate issued by the County Engineer indicating a site does not comply with the Regulations as of a specific date. The Certificate also advises that legal action may be taken against the property owner. The certificate may be filed in the Real Property Records of Harris County, Texas.

## **SECTION 2.07 – CERTIFICATE OF PROPER OPERATION**

“Certificate of Proper Operation” means a form approved and provided by the County Engineer for the purpose of certifying that the owner or operator of the Stormwater Quality Feature is complying with these Regulations and its Stormwater Quality Management Plan.

## **SECTION 2.08 – CFR**

“CFR” means the Code of Federal Regulations, as it may be amended from time to time.

## **SECTION 2.09 – CLEAN WATER ACT**

“Clean Water Act” means the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 *et. seq.*).

## **SECTION 2.10 – COMMERCIAL USE**

“Commercial use” means any profit or not-for-profit activity involving the manufacture, storage, transportation, distribution, exchange or sale of goods or commodities in the provision of professional or nonprofessional services, the sale or lease of real property, or the use of property for multi-family residential purposes.

## **SECTION 2.11 – COUNTY ENGINEER**

“County Engineer” means the holder of the statutory office of County Engineer for Harris County or the employee designated by the County Engineer to perform a task required by these Regulations.

## **SECTION 2.12 – DEVELOPMENT**

“Development” means any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials, and any activity that requires a subdivision plat or that is part of a subdivision plat approved by a municipality.

## **SECTION 2.13 – DISCHARGE**

“Discharge” means the introduction or addition of any pollutant, stormwater, or any other substance whatsoever into the MS4 or into the waters of the United States, or to cause, suffer, allow, or permit any such introduction or addition.

## **SECTION 2.14 – DISCHARGER**

“Discharger” means a person that causes or threatens to cause a discharge.

## **SECTION 2.15 – DWELLING UNIT**

“Dwelling unit” means a structure or a portion of a structure that has independent living facilities including provisions for non-transient sleeping, cooking and sanitation.

## **SECTION 2.16 – EPA**

“EPA” means the United States Environmental Protection Agency or any successor agency.

## **SECTION 2.17 – HARRIS COUNTY POLLUTION CONTROL SERVICES (PCS)**

“Harris County Pollution Control Services” or “PCS” means Harris County Pollution Control Services Department.

## **SECTION 2.18 – HEARING EXAMINER**

“Hearing Examiner” means the person appointed by Commissioners Court to hold hearings concerning the appeal of a revocation, suspension, or denial of a SWQ Permit, a challenge to

Harris County’s determination that a facility is a Type 1 or Type 2 facility, or that a discharge is contributing a substantial pollutant loading to the MS4.

**SECTION 2.19 – IMPERVIOUS SURFACE**

“Impervious surface” means any area that does not readily absorb water including, but not limited to, building roofs, parking and driveway areas, compacted or rolled areas that are not revegetated, sidewalks, and paved recreation areas.

**SECTION 2.20 – INDUSTRIAL ACTIVITY CERTIFICATION**

“Industrial Activity Certification” means a certificate signed by the facility operator, submitted and approved by the County Engineer that covers stormwater discharges from new development and significant redevelopment at a facility that either has, or will have, permit coverage for Stormwater Discharges Associated with Industrial Activity under a permit issued by the EPA or the TCEQ.

**SECTION 2.21 – MULTI-FAMILY RESIDENTIAL**

“Multi-family residential” means the use of property with one or more buildings on a parcel designed for and containing an aggregate of three or more dwelling units. Multi-family residential includes apartments, condominiums, boardinghouses, triplexes and quadriplexes.

**SECTION 2.22 – MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)**

“Municipal separate storm sewer system” or “MS4” means the system of man-made conveyances owned or operated by a municipality, Harris County, or Harris County Flood Control District, and designed or used for collecting or conveying stormwater that discharges to Waters of the United States and which is not used for collecting or conveying sewage.

**SECTION 2.23 – NEW DEVELOPMENT**

“New development” means development of an undeveloped parcel of land five (5) acres or larger without regard to the amount of land that will actually be disturbed, except for:

- (1) development on an existing undeveloped and undivided parcel of five acres or more of one single-family dwelling unit and one or more accessory structures; however, if the

use of the property excluded under the foregoing exception at any time changes to a commercial use, including further subdividing of the property, the owner of the property shall comply with all applicable requirements of these Regulations;

- (2) development of a single-family residential subdivision if:
  - (a) each lot in the subdivision will have no more than 20% impervious cover;
  - (b) no on-site detention for water quantity purposes is required by Harris County or the Harris County Flood Control District; and
  - (c) each lot in the subdivision will front on and will take direct access from an existing public road.
- (3) projects constructed within waters of the United States and not associated with subdivisions, roads, or other commercial development.
- (4) development that results in no impervious surface on the land disturbed.

#### **SECTION 2.24 – NON-STRUCTURAL CONTROLS**

“Non-structural controls” means a maintenance or operational practice designed to prevent or reduce the potential of stormwater runoff contact with pollution-causing activities.

#### **SECTION 2.25 – NOTICE OF CHANGE (NOC)**

“Notice of change” or “NOC” means a written submission that is required by the TCEQ or EPA from a permittee authorized under a water quality permit who has submitted a Notice of Intent on which information must be corrected or changed.

#### **SECTION 2.26 – NOTICE OF INTENT (NOI)**

“Notice of intent” or “NOI” means a written submission to the TCEQ or EPA from an applicant requesting coverage under a water quality permit.

#### **SECTION 2.27 – NOTICE OF TERMINATION (NOT)**

“Notice of termination” or “NOT” means a written submission to the TCEQ or EPA from a permittee authorized under a water quality permit, requesting termination of permit coverage.

## **SECTION 2.28 – NPDES**

“NPDES” means the National Pollutant Discharge Elimination System.

## **SECTION 2.29 – NPDES PERMIT**

“NPDES permit” means a permit issued by the EPA (or by the state under authority assumed pursuant to Section 1342(b) of Title 33 of the United States Code) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general basis.

## **SECTION 2.30 – ONE-STOP SHOP**

“One-stop shop” means the Harris County Engineering Department Office that is responsible for Stormwater Quality Permit approval.

## **SECTION 2.31 – PARCEL**

“Parcel” means a lot or contiguous piece of land that is under common ownership or control or that is part of a larger common plan of development or sale.

## **SECTION 2.32 – PERMITTEE**

“Permittee” means the holder of the SWQ Permit.

## **SECTION 2.33 – PERSON**

“Person” means an individual, corporation, organization, governmental entity, business trust, partnership, association, an agent or employee thereof, or any other legal entity.

## **SECTION 2.34 – POLLUTANT(S)**

“Pollutant(s)” means dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal and

agricultural waste discharged into the MS4 or any waters in the state, or waters of the United States.

### **SECTION 2.35 – POLLUTION**

“Pollution” means 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 public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

### **SECTION 2.36 – PROPERTY OWNERS’ ASSOCIATION**

“Property owners’ association” means an association composed of owners of the property pursuant to Texas Property Code Chapters 202 through 205, as amended. The property owners’ associations shall be one option in the ownership and maintenance of Stormwater Quality Features.

### **SECTION 2.37 – REPRESENTATIVE STORM EVENT**

“Representative storm event” shall mean a storm event that is greater than one tenth (0.1) of an inch in magnitude and that occurs at least seventy-two (72) hours from the previously measurable (greater than one tenth (0.1) of an inch rainfall) storm event.

### **SECTION 2.38 – SEWAGE**

“Sewage” means waste that is primarily organic and biodegradable or decomposable, and generally originates as human, animal, or plant waste from certain activities, including the use of toilet facilities, washing, bathing, and preparing food.

### **SECTION 2.39 – SIGNIFICANT REDEVELOPMENT**

“Significant redevelopment” means an increase in the total amount of impervious surface on a previously developed five-acre or larger parcel so that the total resulting impervious surface is

one acre or larger. Only additions of impervious surface after October 1, 2001 shall be totaled and counted toward the one-acre threshold.

#### **SECTION 2.40 – SINGLE-FAMILY RESIDENTIAL**

“Single-family residential” means the use of a lot with one building designed for and containing not more than two dwelling units.

#### **SECTION 2.41 – STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY**

“Stormwater Discharges Associated with Construction Activity” means any stormwater discharges from construction activity including, clearing, grading, excavation, and demolition activities, except operations that result in the disturbance of less than five acres of total land area that are not part of a larger common plan of development or sale. The term does not include discharges from facilities or activities excluded from the NPDES program under Part 122 of Title 40 of the Code of Federal Regulations.

#### **SECTION 2.42 – STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY**

“Stormwater Discharges Associated with Industrial Activity” means the same as defined in Section 122.26 (b)(14) of Title 40 of the Code of Federal Regulations, except that it shall not include discharges from the activities enumerated in subsection (x) of that section.

#### **SECTION 2.43 – STORMWATER POLLUTION PREVENTION PLAN (SWPPP)**

“Stormwater pollution prevention plan” or “SWPPP” means a plan prepared and required for the purpose of complying with federal, state, or Harris County regulations governing Stormwater Discharges Associated with Construction Activity or Industrial Activity.

#### **SECTION 2.44 – STORMWATER QUALITY ENGINEER**

“Stormwater Quality Engineer” means the person designated by the County Engineer to approve Stormwater Quality Management Plans.

#### **SECTION 2.45 – STORMWATER QUALITY FEATURES**

“Stormwater quality features” means the devices or structures created using Best Management Practices to eliminate or reduce pollution discharged into the MS4.

#### **SECTION 2.46 – STORMWATER QUALITY MANAGEMENT PLAN (SWQMP)**

“Stormwater quality management plan” or “SWQMP” means a plan prepared by an engineer licensed in the State of Texas in accordance with Part B, Section 2 of these Regulations.

#### **SECTION 2.47 – STORMWATER QUALITY PERMIT (SWQ Permit)**

“Stormwater Quality Permit” or “SWQ Permit” means the permit issued by the County Engineer indicating that the operator of a site or facility has submitted and obtained approval of the necessary plans, and given the proper notices, as required by these Regulations.

#### **SECTION 2.48 – STRUCTURAL CONTROL**

“Structural control” means a structure or vegetative practice that is generally designed to reduce pollutant levels in stormwater runoff.

#### **SECTION 2.49 – TCEQ**

“TCEQ” means the Texas Commission on Environmental Quality and any successor agency.

#### **SECTION 2.50 – TPDES**

“TPDES” means the Texas Pollutant Discharge Elimination System that was assumed by the state from the EPA pursuant to Section 1342(b) of Title 33 of the United States Code.

#### **SECTION 2.51 – TPDES PERMIT**

“TPDES permit” means a permit issued by the TCEQ that authorizes the discharge of pollutants to water in the state, whether the permit is applicable on an individual, group, or general basis.

## **SECTION 2.52 – TYPE 1 FACILITY**

“Type 1 facility” means a municipal landfill, hazardous waste treatment disposal and recovery facility, a facility that is subject to Section 11023 of Title 42 of the United States Code (toxic release inventory program), as it may be amended from time to time, and any other industrial facility that Harris County determines is contributing a substantial pollutant loading to the MS4.

## **SECTION 2.53 – TYPE 2 FACILITY**

“Type 2 facility” means any facility excluding a Type 1 facility, which may include any other municipal waste treatment, storage or disposal facilities (including, but not limited to, publicly owned treatment works, transfer stations, and incinerators) and any other individual industrial or commercial facility, or category of facilities engaging in a particular commercial or industrial activity, Harris County believes is contributing a substantial pollutant loading to the MS4.

## **SECTION 2.54 – UNINCORPORATED AREA**

“Unincorporated area” means the area in Harris County, Texas, which is not within an incorporated area of a city, town or village.

## **SECTION 2.55 – WATERS OF THE UNITED STATES**

“Waters of the United States” means all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce; 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 water identified in this definition; all wetlands adjacent to the waters identified in this definition; and any other waters within the federal definition of “waters of the United States” in Section 122.2 of Title 40 of the Code of Federal Regulations; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the federal Clean Water Act.

## **SECTION 2.56 – WETLANDS**

“Wetlands” means an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamp, marshes, bogs, and similar areas.

## **PART B – POST-CONSTRUCTION CONTROLS ON NEW DEVELOPMENT AND SIGNIFICANT REDEVELOPMENT**

### ***Section 1 – Stormwater Quality Permit Process***

#### **SECTION 1.01 – ADMINISTRATION BY COUNTY ENGINEER**

The County Engineer or his designee is responsible for the administration of these Regulations dealing with post-construction controls on new development and significant redevelopment, the issuance of Stormwater Quality Permits required by these Regulations, the enforcement of these Regulations and maintaining proper records.

#### **SECTION 1.02 – PERMITS REQUIRED**

All new development and significant redevelopment within the unincorporated areas of Harris County, Texas without first securing a SWQ Permit, or submitting an Industrial Activity Certification in accordance with Part B, Section 1.05 is prohibited.

If any portion of a project drains directly into a Municipal Separate Storm Sewer System owned by Harris County or the Harris County Flood Control District within the unincorporated areas of Harris County, that project must have a SWQ Permit issued by Harris County. The granting of a SWQ Permit does not imply that federal or state stormwater management criteria have been met and is in addition to any other development permit required in Harris County.

Any new development or significant redevelopment that was permitted by another local government, but is within the unincorporated area of Harris County, shall be required to comply with all provisions of these Regulations, including obtaining and renewing a Stormwater Quality Permit.

### **SECTION 1.03 – DURATION**

The SWQ Permit shall expire one year from the date the Stormwater Quality Features, created pursuant to a Stormwater Quality Management Plan, receive final approval for operation, but must be renewed on or before the expiration date. Final approval for operation occurs upon the issuance of a Certificate of Compliance by the County Engineer pursuant to Part B, Section 4.02.

### **SECTION 1.04 – APPLICABILITY**

Except as provided in Part B, Section 1.02, the requirements to obtain a SWQ Permit shall not apply to new development involving any of the following:

- (a) Any project that has, prior to October 1, 2001, received a completed and unexpired application for a preliminary or final subdivision plat on file with a municipality provided the project is substantially underway by October 1, 2003;
- (b) Any project that has an initial construction plan review from Harris County by October 1, 2001, or in the case of a project not receiving an initial construction plan review, has submitted a valid development permit application to Harris County by October 1, 2001, provided the project is substantially underway by October 1, 2003;
- (c) For toll road projects, if there is a preliminary or approved master drainage plan associated with the project prior to October 1, 2001;
- (d) For Harris County or Harris County Flood Control District channel, basin, roadway, or bridge projects, if the date of authorization or notice to proceed with the preliminary engineering report from Harris County or the Harris County Flood Control District to the consultant is prior to October 1, 2001;
- (e) linear projects such as underground pipelines, utilities, or drainage where the resulting impervious surface is limited to less than one acre. For this exemption, plans and drawings showing the total resultant impervious surface must be submitted to the County Engineer. Any future extensions or changes to the impervious surface shall be counted toward the one-acre threshold; or
- (f) “Hike & Bike” trail projects where both public signage and trash receptacles will be implemented along the trail’s path and that are either greater than 5 acres with

no existing development, or greater than 1 acre of net impervious surface for redevelopment. Public signage shall include water quality messages to the public, including but not limited to proper disposal of pet waste. Pet waste bags are encouraged.

#### **SECTION 1.05 – INDUSTRIAL ACTIVITY CERTIFICATION**

If new development or significant redevelopment occurs at a facility that either has or will have permit coverage for Stormwater Discharges Associated with Industrial Activity issued by the TCEQ, the operator shall submit an Industrial Activity Certification on a form prescribed and approved by the County Engineer to the Stormwater Quality Engineer. An Industrial Activity Certification shall also include any of the following:

- (a) A copy of the application for an individual permit from the TCEQ or EPA for Stormwater Discharges Associated with Industrial Activity at the facility;
- (b) A copy of the permit issued by the TCEQ or EPA for Stormwater Discharges Associated with Industrial Activity at the facility;
- (c) A copy of the NOI for coverage under a general permit for Stormwater Discharges Associated with Industrial Activity issued by the TCEQ, or the no-exposure certification referenced in Part D, Section 2.02;
- (d) A statement of commitment to file an application for an individual permit from the TCEQ for Stormwater Discharges Associated with Industrial Activity at the facility; or
- (e) A statement of commitment to file a NOI for coverage under a general permit for Stormwater Discharges Associated with Industrial Activity issued by the TCEQ.

#### **SECTION 1.06 – STORMWATER QUALITY PERMIT APPLICATION**

The application for a Stormwater Quality Permit shall be on a form prescribed and approved by the County Engineer and shall be supported by the following:

- (a) A complete set of construction plans including a Stormwater Quality Management Plan which must be approved by the Stormwater Quality Engineer under Part B, Section 2 of these Regulations;
- (b) Payment of a fee charged in accordance with Part B, Section 8.01;

- (c) If a bond is required by the Regulations of Harris County, Texas for the Approval and Acceptance of Infrastructure, the amount of the bond shall be increased by an amount equal to the cost of constructing the Stormwater Quality Features;
- (d) A copy of the NOI to discharge Stormwater Associated with Construction Activity submitted or to be submitted to the EPA or TCEQ; and
- (e) One of the following to demonstrate proof of ownership and maintenance responsibility where appropriate:
  - 1. a copy of a letter from a municipal utility district, a public utility district, a water control and improvement district, a fresh water supply district, or any other utility or water district created pursuant to state law;
  - 2. a copy of creation documents from a Property Owners' Association; or
  - 3. documents from individual owners.
- (f) An Affidavit to the Public in a form and containing the statements prescribed by the County Engineer that has been recorded in accordance with Part B, Section 4.03.

The County Engineer may require the submission of additional information, drawings, specifications or documents to determine whether a SWQ Permit shall be issued from the information submitted.

#### **SECTION 1.07 – DETERMINATION OF PERMIT ELIGIBILITY**

After the application is filed, the County Engineer shall:

- (a) Issue the SWQ Permit if he is satisfied that that applicant has met all the requirements of Part B, Section 1.06; or
- (b) Return the application and supporting data to the applicant if any provision of these Regulations is not met. The County Engineer shall notify the applicant in writing of items required for further review of the plans.

## **SECTION 1.08 –STORMWATER QUALITY PERMIT RENEWAL**

Stormwater Quality Permits shall be renewed annually. The date of renewal shall be the anniversary date the Stormwater Quality Features received final approval for operation pursuant to Part B, Section 4.02. Failure to renew the SWQ Permit before this date means it expires and the permittee must pay the expired permit renewal fee for each year the permit is expired.

To renew a SWQ Permit the following items must be submitted:

- (a) A stormwater quality permit renewal application as prescribed and approved by the County Engineer;
- (b) A Certificate of Proper Operation completed by the owner or owner's agent;
- (c) A certification completed by a professional engineer licensed in the State of Texas that all such controls conform to the plans and technical specifications in the SWQMP;
- (d) Time and date stamped pictures of the approved structural control(s) taken no more than 30 days prior to submission of the renewal application. There must be at least one location-establishing picture that shows the structural control and something identifiable in the background. Clear photographs must be submitted that demonstrate that the structural control(s) is/are in good and working condition. This can be shown by including pictures of side slopes of the drainage structure, the structural control at the outlet of the detention pond, and/or the inside of a hydrodynamic separator. Additional information may be requested on an as needed basis to ascertain the current condition of the Stormwater Quality Features;
- (e) Waste manifests for the most recent hydrodynamic separator control(s) maintenance event; and
- (f) Payment of a renewal fee charged in accordance with Part B, Section 8.01. All outstanding inspection, transfer, or other fees owed Harris County shall be paid prior to renewal of the SWQ Permit. Harris County shall not renew a SWQ Permit if such fees are outstanding.

## **SECTION 1.09 – TERM OF PERMITS**

Development activity under the SWQ Permit must start within 180 days from the date of issuance. Failure to initiate development activity shall result in the SWQ Permit becoming invalid. Upon written request, the County Engineer may grant two (2) six-month extensions.

## ***Section 2 – Stormwater Quality Management Plans***

### **SECTION 2.01 – PLAN APPROVAL REQUIRED**

Before the County Engineer shall approve a SWQ Permit, a Stormwater Quality Management Plan must be approved by the Stormwater Quality Engineer.

### **SECTION 2.02 – PLAN APPROVAL PROCESS**

The Stormwater Quality Management Plan shall be submitted as follows:

- (a) The SWQMP shall be prepared in accordance with the Storm Water Management Handbook for Construction Activities and the Storm Water Quality Management Guidance Manual or the Storm Water Quality Guidance Document for New Development/Redevelopment Projects. If applicable to the BMP selected, the SWQMP shall incorporate features from the Minimum Design Criteria for Implementation of Certain Best Management Practices for Storm Water Runoff Treatment Options as set forth in Appendix A. Alternate techniques and methods not mentioned in the Storm Water Quality Management Guidance Manual, Storm Water Quality Guidance Document for New Development/Redevelopment Projects, Storm Water Management Handbook for Construction Activities, or the Minimum Design Criteria for Implementation of Certain Best Management Practices for Storm Water Runoff Treatment Options shall be reviewed on a case-by-case basis.
- (b) A preliminary set of drawings shall be submitted to the “One-Stop Shop” for initial review. If a site has Stormwater Discharges Associated with Construction Activity then a preliminary set of drawings and a SWPPP shall be submitted. The Civil Development Review Sheet shall be a portion of this submittal. The review will be conducted in conjunction with the review for compliance with the

Regulations of Harris County, Texas, for Flood Plain Management; Regulations of Harris County, Texas, for Driveways and Culverts; Regulations of Harris County, Texas for the Approval and Acceptance of Infrastructure, and the Harris County Flood Control Criteria Manual, and any other applicable regulation. Construction control measures including applicable standard drawings shall be included in the submittal. Once reviewed, the drawings shall be returned to the applicant with comments.

- (c) Any preliminary drawings or plans altered or marked by the Stormwater Quality Engineer shall be resubmitted along with the corrected original drawings for signature. If further corrections are required, the package shall be returned to the applicant for resubmittal upon completion of revisions.
- (d) Drawings shall meet the same standards as far as size, line weight, etc., as outlined in the Rules, Regulations and Requirements Relating to the Approval and Acceptance of Improvements in Subdivisions or Resubdivisions and/or the Harris County Flood Control Criteria Manual.
- (e) Acceptable Low Impact Development (LID) applications may be proposed as an alternative to applicable sections of these regulations. All proposals must meet and follow the Harris County Low Impact Development & Green Infrastructure Design Criteria for Storm Water Management, Appendix C, as adopted by Commissioners Court.
- (f) SWQMPs originally permitted by a Harris County TPDES stormwater permit co-permittee shall be reviewed by the Stormwater Quality Engineer to ensure the BMP that was selected incorporates features from the Minimum Design Criteria for Implementation of Certain Best Management Practices for Storm Water Runoff Treatment Options as set forth in Appendix A. Alternate techniques and methods not mentioned in the Storm Water Quality Management Guidance Manual, Storm Water Quality Guidance Document for New Development/Redevelopment Projects, Storm Water Management Handbook for Construction Activities, or the Minimum Design Criteria for Implementation of Certain Best Management Practices for Storm Water Runoff Treatment Options shall be reviewed on a case-by-case basis. If it is determined that the BMP

provided in the SWQMP does not meet the aforementioned requirements, an update to the SWQMP shall be submitted to the Stormwater Quality Engineer for approval.

### **SECTION 2.03 – PLAN AMENDMENT PROCESS**

The Stormwater Quality Management Plan may be amended by resubmitting the plan with the requested changes to the “One Stop Shop” for review in accordance with the procedures for initial plan approval set forth in Part B, Section 2.02. If the plan change involves an amendment to the design of any previously approved structural control, a fee shall be charged in accordance with Part B, Section 8.01 for review and processing of the amendment and issuance of an amended permit.

### **SECTION 2.04 – MASTER STORMWATER QUALITY MANAGEMENT PLAN PERMIT**

A Master Stormwater Quality Permit is a permit which may be obtained by a political subdivision of the State for more than one Stormwater Quality Feature located within the boundaries of its jurisdiction. Once consolidation of the approved Stormwater Quality Features is approved, the permit that is closest to renewal among the permits being consolidated shall be placed as the Master Stormwater Quality Permit. Any permit considered for consolidation for a Master Permit that is non-compliant must be brought into compliance before approval of the Master Permit can occur. The Master Permit shall be obtained in accordance with the procedures as set forth in Part B, Section 2.03. Payment of a fee charged in accordance with Part B, Section 8.01 is required.

## ***Section 3 – Ownership and Maintenance of the Stormwater Quality Features***

### **SECTION 3.01 – OWNERSHIP AND MAINTENANCE**

Ownership and maintenance of the Stormwater Quality Features designed and built pursuant to Part B, Section 2.02 of these Regulations shall be according to the following:

- (a) The Stormwater Quality Feature shall remain the responsibility of the property owner unless there is a transfer pursuant to Part B, Section 4.04.
- (b) If Harris County or the Harris County Flood Control District accepts the Stormwater Quality Features for maintenance, the permit holder's requirements for the SWQ Permit and permit renewal with respect to that feature as set forth in Part B, Sections 1.02 and 1.08 terminate. All other permit requirements continue to apply.

#### ***Section 4 – Permittee Responsibilities***

##### **SECTION 4.01 – RESPONSIBILITIES OF ALL PERMITTEES**

All permittees shall:

- (a) Comply with the SWQMP;
- (b) Remove all soil deposits resulting from runoff or from vehicular construction traffic and/or from site operations from the road adjacent roadside ditch on a daily or more frequent basis, or as specified in the SWQMP;
- (c) Post the SWQ Permit on the job site in a place visible from the nearest road or street during the construction phase; and
- (d) Allow the County Engineer to inspect the site. The County Engineer may make as many scheduled or unscheduled inspections as he may deem necessary to enforce these Regulations and shall have access to any building or premise at any reasonable time. If no specific inspection standards are set by any part of these Regulations, the inspection shall only be to determine that the drawings and specifications furnished with the SWQ Permit application are met.

##### **SECTION 4.02 – CERTIFICATIONS AND INSPECTIONS**

All Stormwater Quality Features shall be constructed in accordance with the plans approved by the County Engineer. Permittees shall inspect and certify that its Stormwater Quality Features are constructed and operated according to submitted plans as follows:

- (a) When the Stormwater Quality Features are complete and ready for use, a professional engineer licensed in the State of Texas must inspect, certify, and

provide clear photographic documentation that the Stormwater Quality Features were completed in accordance with the approved plans. The permittee shall then submit an As-Built Certification form supplied by the County Engineer. The form must be completed, signed, and sealed by a professional engineer licensed in the State of Texas indicating that the Stormwater Quality Features were completed in accordance with the approved plans. Photographic documentation shall include several time and date stamped pictures of the approved structural control. There must be at least one location-establishing picture that shows the structural control is in good and working condition. This can be shown by including pictures of side slopes of the detention pond, the structural control at the outlet of the detention pond, and/or the inside of a hydrodynamic separator.

- (b) Along with the completed, signed, and sealed As-Built Certification, Permittees shall submit waste manifests for hydrodynamic separator controls if any maintenance has been performed.
- (c) Once the As-Built Certification and any certification required by the SWQMP are submitted to the County Engineer's office, the County Engineer will issue or deny a Certificate of Compliance. Should the County Engineer determine that the applicable certifications were not provided, or any provision of these regulations was not followed, then enforcement procedures such as SWQ Permit revocation or civil enforcement may commence. The County Engineer may deny a Certificate of Compliance if he determines that the Stormwater Quality Features were not constructed in accordance with approved plans.
- (d) Should the County Engineer have to make additional inspections or conduct survey work due to non-compliance with these Regulations, additional fees may be assessed as outlined in Part B, Section 8.

#### **SECTION 4.03 – RECORDATION**

Recordation of the obligation to comply with the Stormwater Quality Permit requirements shall be in the form of an Affidavit to the Public as prescribed by the County Engineer according to the following:

- (a) The obligation to comply with the SWQ Permit requirements shall be recorded by the permittee in the Real Property Records of Harris County, Texas for the affected parcel and will apply to all subsequent owners of all or a portion of the parcel. The recordation shall note that no structural or non-structural controls on, or for the parcel, may be changed from the plans and technical specifications in the SWQ Permit for the parcel. If there are substantial changes in the structural or non-structural controls then the procedures as outlined in Part B, Section 1.06 shall be followed. For Stormwater Quality Features that are not accepted by the Harris County Flood Control District for maintenance, the recordation shall reflect that the features are private and must be properly maintained by the owner in accordance with the SWQMP. Additional information may be requested on an as needed basis to ascertain the current condition of the Stormwater Quality Features.
- (b) For new development that includes the platting of a reserve tract, a notation shall be placed on the subdivision plat that a SWQ Permit must be obtained before the issuance of any development permit for a structure on all or a part of the reserve tract.
- (c) Third-party permittees: For subdivisions involving the Property Owners' Association, the agreement shall be recorded for all parcels in the subdivision. For other new development or significant redevelopment for which there is a third-party permittee, the third-party agreement shall be recorded for all parcels subject to the rights and obligations specified in the agreement at the time of the transfer of the SWQ Permit to the third-party permittee.
- (d) The applicant, or if the SWQ Permit has already been issued, the permittee, shall pay all recording fees required by the county clerk's office.

#### **SECTION 4.04 – TRANSFER**

A permittee may transfer its Stormwater Quality Permit in accordance with the following:

- (a) The SWQ Permit may be held by an entity or person other than the landowner if the entity or person and the landowner enter into a binding legal agreement that meets the requirements of this section. The entity or person must agree to comply

with the requirements of these Regulations and with the terms and conditions of the SWQ Permit, including adherence to the operation and maintenance requirements specified in Part B, Section 3.

- (b) The third-party agreement shall grant fee simple title to all structural controls to the entity or person, provide an easement if necessary to allow access by the entity or person across the landowner's property to maintain structural controls or to implement non-structural controls, and if necessary, to allow stormwater from the landowner's property to drain across any adjacent property to a designated structural control. The legal agreement shall also provide that in the event of its termination for any reason, including either by choice or by default, the obligation to comply with the provisions of this section shall revert to the landowner.
- (c) Permit transfer becomes effective upon the approval of the County Engineer.

## ***Section 5 – Suspension and Revocation of Stormwater Quality Permits***

### **SECTION 5.01 – SUSPENSION OF PERMITS**

SWQ Permit suspensions are handled in accordance with the following provisions:

- (a) A SWQ Permit is suspended when the County Engineer, or his inspector, advises the permittee or some responsible person on the job that the SWQ Permit is suspended and posts a written suspension notice over the SWQ Permit at the jobsite.
- (b) The following actions by the permittee are grounds for suspension of a SWQ Permit:
  - 1. Non-compliance with Part B, Sections 2 or 4 of these Regulations;
  - 2. Deviating from drawings and specifications filed with the County Engineer and refusing to make corrections required by the County Engineer; or
  - 3. Any grounds for revocation of a SWQ Permit as outlined in Part B, Section 5.02.
- (c) When the suspension notice is posted, the permittee must immediately suspend all work on the job except that work necessary to abate the suspension. The suspension will be abated when the corrective work is performed and has passed inspection. The abatement will be evidenced by the removal of the suspension notice by the County Engineer or his inspector and the notation on the Permit Notice by the

County Engineer or his inspector that the work has now been re-inspected and passed. The suspension notice may not be removed by any person other than the County Engineer or his inspector and removal by any other person will be ineffective.

## **SECTION 5.02 – PERMIT REVOCATION**

A Stormwater Quality Permit shall be revoked after notice and opportunity for a hearing pursuant to Part B, Section 5.03 of these regulations if any of the following occur:

- (a) Material deviation from the drawings and specifications on file with the County Engineer, including the SWPPP, or a pattern of consistent deviation from such drawings and specifications which would demonstrate an intention to avoid conformity with the requirements of the SWQ Permit;
- (b) Refusal to uncover work for a mandatory inspection;
- (c) Removal of a permit suspension notice;
- (d) Proceeding with work while a permit is suspended, other than such work necessary to abate a suspension;
- (e) An act or acts of violence, or threat or threats of violence, against the County Engineer or his inspector either on or off the job for the purpose of intimidating the County Engineer or his inspector, so that he will not perform his inspection duties;
- (f) Falsifying information in the SWQ Permit application; or
- (g) Failing to submit all required certifications as outlined in Part B, Section 4.02.
- (h) Consistent violation of the NPDES or TPDES permit for the project during construction, including failure to correct deficiencies noted during construction-phase inspections.

## **SECTION 5.03 – PERMIT REVOCATION PROCEDURES**

Stormwater Quality Permits shall be revoked in the following manner:

- (a) The County Engineer shall file a complaint stating the reason for SWQ Permit revocation with the Hearing Examiner.

1. The Examiner will set a hearing as soon as practicable, but within thirty (30) days.
2. The Examiner will deliver the original Complaint and Hearing Notice to the Clerk of Commissioners Court to be filed, give one copy to the County Engineer, and designate an appropriate person as Serving Agent and give two copies to him or her.
3. The Serving Agent will take the two copies of the Complaint and Hearing Notice to the site where he will:
  - a. Hand one copy of the Complaint and Hearing Notice to the permittee, or
  - b. If the permittee is not an individual or cannot be found on the site, the Serving Agent will hand one copy of the Complaint and Hearing Notice to the person on the site who appears to be in charge, or
  - c. If no person can be found on the site, the Serving Agent will post the Complaint and Hearing Notice over the SWQ Permit and/or Notice of Suspension posted at the job. Upon posting of the Complaint and Hearing Notice the SWQ Permit shall be suspended.
4. The Serving Agent will fill in the return on the remaining copy, noting on it the date, time and manner in which he perfected service, and sign the return and return the remaining copy to the Hearing Examiner.
5. At the time set for hearing, if the return copy of the Complaint has been returned to the Hearing Examiner by the serving agent, and reflects that service has been perfected, the Examiner may proceed with the hearing.
6. Hearings will be conducted in the manner provided for by Part B, Section 6.02 of these Regulations before the Hearing Examiner appointed by Commissioners Court and the Examiner may delegate responsibilities of Hearing Examiner to his Assistant. The Examiner's decision and review by Commissioners Court are governed by Part B, Sections 6.03 and 6.04.

## ***Section 6 – Appeals and Hearing Procedures, Variances, and Review by Commissioners Court***

### **SECTION 6.01 – APPEALS**

If a permit applicant is denied a SWQ Permit or has his SWQ Permit suspended he may appeal the denial or suspension as provided in this Section. The term “appellant” is used to refer to the appealing party. An appellant must seek his remedy under this procedure before seeking his remedy in court. Application for a permit is deemed to be a waiver of the right to challenge these Regulations before exhausting remedies herein provided. The appeals process is as follows:

- (a) Appeals are initiated by the making of complaint with or by requesting an exception to the Regulations from the Hearing Examiner in writing.
- (b) The Hearing Examiner will set a time for a hearing, which will be scheduled as soon as practicable but within thirty (30) days of the receipt of the written complaint or request, and shall prepare a Notice of Public Hearing naming the time and date of the Hearing. Copies shall be distributed as follows:
  - 1. The original copy and the Certificate to Commissioners Court will be filed with the Clerk of Commissioners Court and the Clerk will prepare a file for the Hearing Notice.
  - 2. The Examiner will set up his own working or hearing file, in which he will keep one copy.
  - 3. The Examiner will give one copy to the Appellant.
  - 4. The Examiner will deliver one copy to the County Engineer. The Hearing will be conducted as provided in Part B, Section 6.02.
- (c) Appeal of a suspension will not abate the suspension pending the decision of the Hearing Examiner.

### **SECTION 6.02 – HEARING BEFORE THE EXAMINER**

At Hearings before the Examiner, the Examiner will hear the testimony of the County Engineer and any witnesses called by the County Engineer. The Examiner will hear the testimony of the appellant and any witnesses called by the appellant. The Examiner will review all documents and exhibits submitted to him by the parties. The Examiner will not be bound by formal rules of

evidence and will control the evidence, reserving to himself the power to exclude testimony or exhibits he does not consider relevant. The Hearing Examiner will maintain an accurate record of the evidence adduced at the Hearing.

### **SECTION 6.03 – FILING OF EXAMINER'S DECISION**

The Examiner will prepare a written decision within three (3) working days of the Hearing. A copy of his decision will be filed with the Clerk of Commissioners Court, the members of the Commissioners Court, and with the County Engineer. The original will be sent to the appellant's address shown on the SWQ Permit or application. If a variance is granted, the County Engineer shall prepare the appropriate permit with any special requirements that may be required by the conditions of the variance.

### **SECTION 6.04 – REVIEW BY COMMISSIONERS COURT**

If the County Engineer or the appellant wishes to appeal the Examiner's decision, a written objection must be filed with the Clerk of Commissioners Court within ten (10) days from the date the Examiner's decision is filed. The Clerk will notify the Hearing Examiner who will place the matter on the Agenda of Commissioners Court for review at the next meeting of Commissioners Court. If the County Engineer files the objection, notice that the matter is on the agenda will be sent to the appellant by mail at the appellant's address shown on the SWQ Permit or application. Commissioners Court will review the matter. The Commissioners Court may either affirm or reverse the decision of the Hearing Examiner. A suspension of a permit upheld by the Hearing Examiner will not be abated pending the review of Commissioners Court.

### **SECTION 6.05 – VARIANCES**

If any person wishes an exception to any provision of these Regulations, he or she shall request a variance in the manner prescribed for the filing of an appeal by Part B, Section 6.01 with the Hearing Examiner. The Hearing Examiner shall hold a hearing, and deny or grant the variance. Variances will be granted only if the conditions below are met:

- (a) The applicant has shown good and sufficient cause;

- (b) It has been determined that failure to grant the variance would result in an exceptional hardship to the applicant; and
- (c) The granting of a variance will not result in a pollutant discharge, additional threats to public safety, extraordinary public expense, or create nuisances, cause fraud or victimization of the public.

Economic hardship shall not constitute the sole basis for granting a variance. A hearing before Commissioners Court regarding variances shall be requested in the manner provided in Part B, Section 6.04 of these Regulations. If a variance is granted a SWQ Permit shall be issued and the permittee shall conform to all applicable provisions of these Regulations except the section or sections for which a variance is granted.

## ***Section 7 – Forms and Records***

### **SECTION 7.01 – FORMS AND RECORDS**

Forms to be used in the administration of these Regulations shall be provided and approved by the County Engineer. All forms shall be available at the Harris County Engineering Department and may be amended or supplanted from time to time by the County Engineer.

## ***Section 8 – Fees***

### **SECTION 8.01 – FEES**

Fees for SWQ Permits and inspections are set by Commissioners Court. The Fee Schedule is available online on the Harris County Permits website. Fees shall be paid by cash, cashiers check, money order, personal check, or online when such online system becomes available. Should the check be returned for insufficient funds the SWQ Permit issued becomes invalid. Fees shall be paid at the time the SWQ Permit is delivered to the permittee unless the County Auditor has approved other arrangements.

## ***Section 9 – Civil Enforcement***

### **SECTION 9.01 – CIVIL ENFORCEMENT**

If any person violates any section dealing with Post-Construction Controls on New Development and Significant Redevelopment, the County Attorney may take whatever action is necessary to remedy the violation, including but not limited to filing suit for civil penalties up to \$1,000 a day for each violation, and to enjoin the violation. Each day a violation continues is considered a separate violation for purposes of assessing the civil penalty. Nothing in these Regulations precludes Harris County through the County Attorney's Office from seeking enforcement of state environmental laws pursuant to the Texas Water Code.

### **SECTION 9.02 – CERTIFICATE OF NON-COMPLIANCE**

If the County Engineer determines that a development site or sites does not comply with these Regulations, he may issue a Certificate of Non-Compliance and file the same in the Real Property Records of Harris County, Texas.

## **PART C – STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY**

### ***Section 1 – In General***

#### **SECTION 1.01 – ADMINISTRATION BY COUNTY ENGINEER**

The County Engineer or his designee is responsible for the administration of these Regulations dealing with the Stormwater Discharges Associated with Construction Activity, and the issuance of SWQ Permits required by these Regulations, and enforcement of these Regulations and maintaining proper records.

## **SECTION 1.02 – COMPLIANCE WITH PERMIT AND SWPPP**

The owner and operator of a facility that is required to have a NPDES or TPDES permit to discharge stormwater associated with construction activity shall prepare its SWPPP in accordance with Harris County's Storm Water Management Handbook for Construction Activities and shall strictly comply with the requirements of its NPDES or TPDES permit, the SWQ Permit issued under these Regulations and its SWPPP. It is a violation of these Regulations to operate a facility that has Stormwater Discharges Associated with Construction Activity without an NPDES or TPDES permit for stormwater discharges or in violation of the NPDES or TPDES permit, the SWQ Permit covering the facility, or the SWPPP.

## **SECTION 1.03 – SUBMISSION OF NOI**

The operator of a facility required to have a NPDES or TPDES permit to discharge stormwater associated with construction activity shall not commence construction activity without first submitting an NOI to the EPA or the TCEQ, as appropriate, and shall submit to the Stormwater Quality Engineer:

- (a) a copy of the NOI submitted to the EPA or the TCEQ;
- (b) a certification that the NOI has been submitted to the EPA or the TCEQ as applicable; and
- (c) a copy of a site plan detailing the location of erosion control measures.

The documents required by this section must be submitted to the Stormwater Quality Engineer at the same time the operator submits the NOI to the EPA or TCEQ as applicable.

## **SECTION 1.04 – SUBMISSION OF NOT**

An operator who has filed an NOI with Harris County must submit a certification that he has submitted an NOT to the EPA or TCEQ and a copy of that NOT to the Stormwater Quality Engineer at the same time the operator submits the NOT to the EPA or the TCEQ as applicable.

## ***Section 2 – Inspections***

### **SECTION 2.01 – INSPECTION PROCEDURES**

Harris County will make periodic unannounced inspections of the site during construction to insure compliance with the Stormwater Pollution Prevention Plan. Compliance with the provisions of the SWPPP will be checked on every visit, including the following items:

- (a) Proper public notice;
- (b) Copies of NOI, SWQ Permit, SWPPP, and SWQMP onsite;
- (c) Condition and effectiveness of erosion and sediment control devices;
- (d) Condition of entrance so as to reduce vehicle tracking;
- (e) Inspection and maintenance records;
- (f) Proper fueling and/or washout area construction;
- (g) Sanitary facilities; and
- (h) Proper storage and end of workday containment of trash, construction debris, and work materials.

A Notice of Inspection will be issued to the responsible party. If deficiencies are noted, they must be corrected within 72 hours of receiving a notice. Upon reinspection, if the deficiencies have not been corrected from the first inspection or additional deficiencies are identified, a reinspection fee will be assessed in accordance with the fee schedule set forth in Part B, Section 8 of these Regulations. This fee will be assessed on every reinspection conducted where the previous deficiencies were not addressed or new deficiencies are noted and is in addition to any civil penalty that may be imposed under Part C, Section 3.01 of these Regulations. An inspection by Harris County does not insure compliance with any federal or state stormwater requirements.

### ***Section 3 – Removal of Temporary Erosion Controls***

#### **SECTION 3.01 – REMOVAL OF TEMPORARY EROSION CONTROLS**

A site operator that is required to post notice as a large or small construction site under the Texas Construction General Permit (TXR150000) shall remove all temporary structural erosion controls no later than 30 days after submittal of the NOT or after final stabilization has been achieved on all portions of the site that are the responsibility of the permittee. For large construction sites, primary and secondary operators shall have joint and several liability for compliance with this provision. For small construction sites, operators and property owners shall have joint and several liability for compliance with this provision.

### ***Section 4 – Civil Enforcement***

#### **SECTION 4.01 – CIVIL ENFORCEMENT**

If any person violates any section dealing with Stormwater Discharges Associated with Construction Activity, the County Attorney may take whatever action is necessary to remedy the violation, including but not limited to filing suit for civil penalties up to \$1,000 a day for each violation, and to enjoin the violation. Each day a violation continues is considered a separate violation for purposes of assessing the civil penalty. Nothing in these Regulations precludes Harris County through the County Attorney's Office from seeking enforcement of state environmental laws pursuant to the Texas Water Code.

#### **SECTION 4.02 – CERTIFICATE OF NON-COMPLIANCE**

If the County Engineer determines that a development site or sites does not comply with these Regulations, he may issue a Certificate of Non-Compliance and file the same in the Real Property Records of Harris County, Texas.

## **PART D – STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY**

### ***Section 1 – In General***

#### **SECTION 1.01 – ADMINISTRATION**

Harris County Pollution Control Services is responsible for the administration of these Regulations dealing with the Stormwater Discharges Associated with Industrial Activity, the enforcement of these Regulations, and maintaining proper records.

#### **SECTION 1.02 – UNPERMITTED DISCHARGES PROHIBITED**

The owner or operator of a facility that has Stormwater Discharges Associated with Industrial Activity violates these Regulations if the owner or operator causes, suffers, allows, or permits a discharge into the MS4 without having first obtained authorization under the appropriate NPDES permit, TPDES permit, or is otherwise authorized by the TCEQ to discharge stormwater. Any violation of any general or individual NPDES or TPDES permit is a violation of these Regulations.

#### **SECTION 1.03 – SUBMISSION OF NOI**

If the owner or the operator of a facility that has Stormwater Discharges Associated with Industrial Activity has coverage for those discharges under an NPDES or TPDES general stormwater permit, the owner or operator shall submit to Harris County Pollution Control Services, Attn: Stormwater, a copy of the NOI to obtain coverage for that facility no later than fourteen (14) calendar days after filing the NOI with the EPA or TCEQ for such coverage.

#### **SECTION 1.04 – SUBMISSION OF NOC**

The owner or the operator of a facility that has Stormwater Discharges Associated with Industrial Activity and who is required by their NPDES or TPDES permit to submit an NOC to the EPA or TCEQ shall submit a copy of the NOC to Harris County Pollution Control Services, Attn: Stormwater.

## **SECTION 1.05 – SUBMISSION OF NOT**

The owner or the operator of a facility that has Stormwater Discharges Associated with Industrial Activity and who is required by their NPDES or TPDES permit to submit an NOT to the EPA or TCEQ shall submit a copy of their NOT to Harris County Pollution Control Services, Attn: Stormwater.

If an NOT is submitted because the operator of the facility has changed, a copy of the NOI for the new operator shall be submitted to Harris County Pollution Control Services, Attn: Stormwater, with the NOT.

The copy of the NOT shall be submitted no later than ten (10) calendar days after either all Stormwater Discharges Associated with Industrial Activity are eliminated at the facility or the operator of the facility changes.

## **SECTION 1.06 – DESIGNATION AS A TYPE 1 OR TYPE 2 FACILITY**

Harris County may determine that an individual industrial or commercial facility, or a category of facilities engaging in a particular industrial or commercial activity, are contributing a substantial pollutant loading to the MS4 and can designate that facility or category of facilities as Type 1 or Type 2. Designation as a Type 1 or Type 2 facility shall be based upon such factors as the nature of the activities at the facility, analytical sample results, and drainage patterns in the area. This section excludes municipal landfills, hazardous waste treatment disposal and recovery facilities, and facilities subject to Section 11023 of Title 42 of the United States Code (toxic release inventory program).

Upon designation by Harris County as a Type 1 or Type 2 facility, Harris County Pollution Control Services shall send written notification by certified mail, return receipt requested, to any such facility informing the facility of the designation. The facility may then appeal the designation in the manner set forth in Part E, Section 2.01 of these Regulations.

Facilities that are automatically Type 1 Facilities, as that term is defined in Part A, Section 2, 2.52 of the Regulations, will not require written notification from Harris County Pollution Control Services of their Type 1 designation. They are automatically subject to the requirements of Part D, Section 2, as applicable.

## ***Section 2 – Monitoring***

### **SECTION 2.01 – MONITORING REQUIRED**

Operators of facilities that have stormwater discharges shall comply with the following monitoring requirements:

- (a) All Type 1 and Type 2 facilities required to have authorization to discharge stormwater under an NPDES or TPDES permit must undertake all monitoring required by that permit. Upon request, the operator of the facility shall submit the results of this monitoring to Harris County Pollution Control Services, Attn: Stormwater.
- (b) A Type 1 or 2 Facility shall, upon written request by Harris County Pollution Control Services, be required to analytically monitor stormwater discharges from its facility during a representative storm event on an outfall by outfall basis at a frequency to be determined by PCS for any unpermitted pollutants PCS determines may be contributed to the MS4 and to submit those monitoring results to PCS. The monitoring methods employed by the operators must follow EPA standards for monitoring as set forth in 40 CFR Part 136 as amended, and 30 TAC 319, as amended. All sampling conducted by a facility shall occur during a representative storm event and shall be completed within the first 30 minutes of discharge by grab sample. If it is not practicable to complete the sampling within the first 30 minutes, sampling must be completed within the first hour of discharge.

## **SECTION 2.02 – NO EXPOSURE CERTIFICATION**

Type 1 and Type 2 Facilities and other Facilities with Stormwater Discharges Associated with Industrial Activity that are required to obtain a permit for their stormwater Discharges Associated with Industrial Activity, may be excluded from those requirements if there is no exposure of individual materials or activities to precipitation or runoff. To qualify for no exposure exclusion, Facilities with Stormwater Discharges Associated with Industrial Activity must meet the criteria for exclusion described in the TPDES Multi-Sector General Permit TXR05000 and shall submit to Harris County Pollution Control Services a copy of the no exposure certification submitted to the TCEQ.

It is a violation of these Regulations for a facility that has submitted the conditional no-exposure certification to fail to meet the no-exposure certification standards established by the TCEQ.

## **SECTION 2.03 – REPORTING OF MONITORING RESULTS**

All monitoring results shall be submitted according to the following:

- (a) If the results of any monitoring required under Part D, Section 2.01 above, exceed a benchmark or violate an effluent limitation in an NPDES or TPDES stormwater permit for a facility or a threshold listed in Appendix B or any other parameter determined by Harris County Pollution Control, the owner and operator of the facility shall submit the results in writing to Harris County Pollution Control, Attn: Stormwater, within thirty (30) days after conducting the monitoring.
- (b) If the results of any monitoring required under Part D, Section 2.01(b) exceed a benchmark or violate an effluent limitation in an NPDES or TPDES stormwater permit for a facility or a threshold listed in Appendix B or any other parameter determined by Harris County Pollution Control, the owner or operator of the facility shall investigate the cause of the exceedance and take appropriate corrective action to eliminate the exceedance as soon as possible but no later than 30 days from when the exceedance is detected. The operator shall submit monitoring results and corrective action measures taken in writing to Harris County Pollution Control Services within thirty (30) days after conducting the

monitoring. It is a violation of these Regulations to refuse to monitor or submit data as required by PCS.

## **SECTION 2.04 – INTERMITTENT DISCHARGES**

For intermittent discharges to the MS4, the discharger, upon request from Harris County, shall notify Harris County Pollution Control Services 24 hours prior to discharge, or as soon as is practicable. Notification shall be made by calling 713-920-2831 or by fax to 713-274-6475.

### ***Section 3 – Civil Enforcement***

## **SECTION 3.01 – CIVIL ENFORCEMENT**

If any person violates any section dealing with Stormwater Discharges Associated with Industrial Activity, the County Attorney may take whatever action is necessary to remedy the violation, including but not limited to filing suit for civil penalties up to \$1,000 a day for each violation, and to enjoin the violation. Each day a violation continues is considered a separate violation for purposes of assessing the civil penalty. Nothing in these Regulations precludes Harris County through the County Attorney's Office from seeking enforcement of state environmental laws pursuant to the Texas Water Code.

## **PART E – NON-STORMWATER DISCHARGES**

### ***Section 1 – In General***

## **SECTION 1.01 – ADMINISTRATION**

Harris County Pollution Control Services is responsible for the administration of these Regulations dealing with non-stormwater discharges, enforcement of these Regulations, and maintaining proper records.

## **SECTION 1.02 – PROHIBITED DISCHARGES**

No person shall discharge or cause to be discharged into the Municipal Separate Storm Sewer System (MS4) anything that is not composed entirely of stormwater.

It is a violation of these Regulations if a person discharges any stormwater that contains a pollutant or any substance which causes, continues to cause, or will cause pollution.

### **SECTION 1.03 –ALLOWABLE NON-STORMWATER DISCHARGES**

(a) It is an affirmative defense to any enforcement action for a violation of Part E, Section 1.02 that the discharge was composed entirely of one or more of the following categories of discharges:

1. A discharge authorized by, and in full compliance with, an NPDES or TPDES permit;
2. A discharge or flow resulting from fire-fighting or fire hydrant flushings excluding discharges of hyperchlorinated water, if that discharge is not reasonably expected to be a significant source of pollutants to the MS4;
3. A discharge or flow of fire protection water if that discharge is not reasonably expected to be a significant source of pollutants to the MS4;
4. Water line flushing;
5. Landscape irrigation;
6. Diverted stream flows;
7. Rising Ground Waters;
8. Uncontaminated Ground Water infiltration;
9. Infiltration, as defined at 40 CFR 35.2005(20) to separate storm sewers;
10. Uncontaminated Pumped ground water;
11. Foundation drains;
12. Discharges from potable water sources;
13. Irrigation water;
14. Uncontaminated air conditioning condensation;
15. Water from crawl space pumps;
16. Springs;
17. Lawn watering provided the water does not contain significant amounts of fertilizers, pesticides, herbicides, or other undesirable lawn care products;
18. Footing drains;

19. Flows from riparian habitats and wetlands;
  20. Non-commercial car washing (until such time as the TCEQ issues a general permit for such discharges);
  21. Water from the routine washing of pavement conducted without the use of detergents, other chemicals or heat and where there is no discharge of any substance causing a petroleum hydrocarbon sheen and where there is no discharge of a toxic or hazardous substance.
  22. Water from the routine external washing of structures, conducted without the use of detergents, other chemicals, or heat, provided significant contaminants are not present;
  23. Dechlorinated swimming pool discharges provided the water contains less than or equal to 0.1 mg/L chlorine when entering the MS4;
  24. Materials resulting from a spill where the discharge is necessary to prevent loss of life, personal injury or severe property damage provided that the party responsible for the spill takes all reasonable steps to minimize or prevent any adverse effects to human health or the environment;
  25. Uncontaminated compressor condensate;
  26. Traffic control device wash water provided cleaning chemicals or detergents are not used; or
  27. Spray park water that has not been re-circulated or hyperchlorinated.
- (b) Harris County may determine, on a case-by-case basis, that any of the above listed affirmative defenses are contributing a substantial pollutant loading to the MS4, and may prohibit such discharges according to the following:
1. Harris County will provide written notice that the discharge is prohibited;
  2. The person affected by this may appeal this decision according to Part E, Section 2 and obtain a variance according to Part E, Section 2.05. To appeal, the person must inform Harris County of its decision to appeal within 30 days after the receipt of notice from Harris County.

## **SECTION 1.04 – SPILLS INTO THE MS4**

Any discharge into the MS4 subject to the reporting requirements of 30 TAC §319.302 or 30 TAC §327.3 shall be reported to Harris County Pollution Control Services at 713-920-2831, as soon as possible, and not later than 24 hours after the occurrence.

## ***Section 2 – Appeals and Hearing Procedure, Variances, and Review by Commissioners Court***

### **SECTION 2.01 – APPEALS**

If Harris County designates a facility as a Type 1 or Type 2 facility under Part D, Section 1.06 or that a discharge is contributing a substantial pollutant loading to the MS4 pursuant to Part E, Section 1.02 (b), the discharger may appeal the determination as provided in this Section. The term “appellant” is used to refer to the appealing party. An appellant must seek his remedy under this procedure before seeking his remedy in court. The appeals process is as follows:

- (a) Appeals are initiated by submitting a written challenge to Harris County’s determination to the Hearing Examiner.
- (b) The Hearing Examiner will set a time for a hearing, which will be scheduled as soon as practicable but within forty-five (45) days of the receipt of the written complaint or request, and shall prepare a Notice of Public Hearing naming the time and date of the Hearing. Copies shall be distributed as follows:
  1. The original copy and the Certificate to Commissioners Court will be filed with the Clerk of Commissioners Court and the Clerk will prepare a file for the Hearing Notice.
  2. The Examiner will set up his own working or hearing file, in which he will keep one copy.
  3. The Examiner will give one copy to the Appellant.
  4. The Examiner will deliver one copy to Harris County Pollution Control Services. The Hearing will be conducted as provided in Part E, Section 2.02.

- (c) Appeal of a determination that a discharge contributes a substantial pollutant loading to the MS4 will not abate the determination pending the decision of the Hearing Examiner.

## **SECTION 2.02 – HEARING BEFORE THE EXAMINER**

At Hearings before the Examiner, the Examiner will hear the testimony of Harris County Pollution Control Services and any witnesses called by Harris County Pollution Control Services. The Examiner will hear the testimony of the appellant and any witnesses called by the appellant. The Examiner will review all documents and exhibits submitted to him by the parties. The Examiner will not be bound by formal rules of evidence and will control the evidence, reserving to himself the power to exclude testimony or exhibits he does not consider relevant. The Hearing Examiner will maintain an accurate record of the evidence adduced at the Hearing.

## **SECTION 2.03 – FILING OF EXAMINER'S DECISION**

The Examiner will prepare a written decision within three (3) working days of the Hearing. A copy of his decision will be filed with the Clerk of Commissioners Court, the members of the Commissioners Court, and with Harris County Pollution Control Services. The original will be sent to the appellant's address. If a variance is granted, Harris County Pollution Control Services shall prepare the appropriate paperwork requirements that may be required by the conditions of the variance.

## **SECTION 2.04 – REVIEW BY COMMISSIONERS COURT**

If Harris County Pollution Control Services, or the appellant wishes to appeal the Examiner's decision, a written objection must be filed with the Clerk of Commissioners Court within ten (10) days from the date the Examiner's decision is filed. The Clerk will notify the Hearing Examiner who will place the matter on the Agenda of Commissioners Court for review at the next meeting of Commissioners Court. If Harris County Pollution Control Services files the objection, notice that the matter is on the agenda will be sent to the appellant by mail. Commissioners Court will review the matter. The Commissioners Court may either affirm or reverse the decision of the Hearing Examiner. The determination that the discharge contributes a

substantial pollutant loading to the MS4 will not be abated pending the review of Commissioners Court.

## **SECTION 2.05 – VARIANCES**

If any person wishes an exception to any provision of these Regulations, he or she shall request a variance in the manner prescribed for the filing of an appeal by Part E, Section 2.01, with the Hearing Examiner. The Hearing Examiner shall hold a hearing, and deny or grant the variance. Variances will be granted only if the conditions below are met:

- (a) The applicant has shown good and sufficient cause;
- (b) It has been determined that failure to grant the variance would result in an exceptional hardship to the applicant; and
- (c) The granting of a variance will not result in a substantial pollutant loading into the MS4, additional threats to public safety, extraordinary public expense, or create nuisances, cause fraud or victimization of the public.

Economic hardship shall not constitute the sole basis for granting a variance. A hearing before Commissioners Court regarding variances shall be requested in the manner provided in Part E, Section 2.04 of these Regulations. If a variance is granted the applicant may then discharge and shall conform to all applicable provisions of these Regulations except the section or sections for which a variance is granted.

## ***Section 3 – Compliance Monitoring***

### **SECTION 3.01 – COMPLIANCE MONITORING**

Harris County may require the installation and maintenance of monitoring equipment according to the following:

- (a) Harris County shall have the right to install at a facility that discharges stormwater to the MS4, or to require the installation of, such devices as are necessary to conduct sampling or metering of the facility's operations.
- (b) Harris County may require any facility that it determines has discharged or is discharging a pollutant or any substance which causes, continues to cause, or will cause pollution to

conduct specified sampling, testing, analysis and other monitoring of its stormwater discharges. Harris County may specify the frequency and parameters of any required monitoring.

- (c) Harris County may require any facility that it determines has discharged or is discharging a pollutant or any substance that causes, continues to cause, or will cause pollution to install monitoring equipment as necessary at the facility's expense. The facility, at its own expense, shall at all times maintain the sampling and monitoring equipment in a safe and proper operating condition. Each device used to measure stormwater flow and quality must be calibrated to ensure accuracy.
- (d) Any temporary or permanent obstruction to safe and easy access to a facility that is to be inspected or sampled must be promptly removed by the facility at the written or verbal request of Harris County Pollution Control Services and may not be replaced. The cost of clearing the access to the facility must be borne by the facility.

#### ***Section 4 – Civil Enforcement***

##### **SECTION 4.01 – CIVIL ENFORCEMENT**

If any person violates any section dealing with non-stormwater Discharges, the County Attorney may take whatever action is necessary to remedy the violation, including but not limited to filing suit for civil penalties up to \$1,000 a day for each violation, and to enjoin the violation. Each day a violation continues is considered a separate violation for purposes of assessing the civil penalty. Nothing in these Regulations precludes Harris County through the County Attorney's Office from seeking enforcement of state environmental laws pursuant to the Texas Water Code.

## **APPENDIX A**

### **Minimum Design Criteria for Implementation of Certain Best Management Practices for Storm Water Runoff Treatment Options**

Available:

[http://www.eng.hctx.net/Portals/23/Publications/criteria\\_2001\\_edition.pdf](http://www.eng.hctx.net/Portals/23/Publications/criteria_2001_edition.pdf)

## APPENDIX B

### Facility Monitoring Thresholds

<b>Parameter</b>	<b>Value</b>
Total Oil and Grease	15 mg/l
Chemical Oxygen Demand (COD)	60 mg/l
pH	6-9 Standard Units
Biochemical Oxygen Demand (BOD)	30 mg/l
Total Suspended Solids (TSS)	50 mg/l
Total Phosphorus	2 mg/l
Nitrate plus Nitrite Nitrogen	0.68 mg/l
Total Kjeldahl Nitrogen (TKN)	15 mg/l
Total Organic Carbon	75 mg/l
NH3	15 mg/l
Temperature	100 degrees F

## **APPENDIX C**

### **Harris County Low Impact Development & Green Infrastructure Design Criteria for Storm Water Management**

Available:

[http://www.eng.hctx.net/Portals/23/Publications/SWQ\\_LID\\_design\\_criteria.pdf](http://www.eng.hctx.net/Portals/23/Publications/SWQ_LID_design_criteria.pdf)