

**WATERSHED PROTECTION ZONE PERMIT APPLICATION**

Owner Name:			Contact Name:		
Address:			Address:		
City:	State:	Zip:	City:	State:	Zip
Owner's Phone Number:	Owner's Facsimile Number:		Contact's Phone Number:	Contact's Facsimile Number:	
Owner's E-mail Address			Contact's E-mail Address		
Person Submitting Application:			Title of Person Submitting Application:		
Brief description/use of the proposed project:					

- Submit a map of the development or proposed project in relation to the applicable watershed protection zone.
- Submit an impact study performed or reviewed and certified by a professional engineer licensed in the State of Texas containing at a minimum the following:
  - Description of the proposed project including location and extent of impervious surfaces; on-site processes or storage of materials; the anticipated use of the land and buildings; description of the site including topographic, hydrologic, and vegetative features;
  - Characteristics of natural runoff on the site and projected runoff with the proposed project, including its rate and chemical characteristics deemed necessary to make an adequate assessment of water quality;
  - Measures proposed to be employed to reduce the rate of runoff and pollutant loading of runoff from the project area, both during construction and after;
  - Proposed runoff control and water quality protection measures for the site. These measures shall be designed with the goal of ensuring that the rate of surface water runoff from the site does not exceed pre-development conditions and that the quality of such runoff will not be less than pre-development conditions. Special emphasis shall be placed on the impacts of proposed encroachments into any required buffer; and
  - Where the applicant seeks to utilize existing or planned off-site stormwater quality management facilities, the applicant shall provide a written certification that the owner of the off-site facilities will accept the runoff and be responsible for its adequate treatment to a level acceptable to the Director of Engineering.
- If required, submit a site plan meeting the following criteria:
  - The site plan shall be drawn to scale showing all planned improvements, including the width, depth, and length of all existing and proposed structures, roads, water courses and drainage ways; water, wastewater and stormwater facilities; and utility installations;
  - Location, dimensions, and area of impervious surfaces, both existing and proposed, on the site;
  - The orientation and distance from the boundaries of the proposed site to the nearest bank of the affected stream or water body;
  - Elevations of the site with grading plans and erosion and sediment control plans showing existing and proposed contours at two feet intervals;
  - Location and detailed design of any spill or leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials or pollutants; and
  - Boundary of any wetlands as defined by § 404 of the Clean Water Act and as defined in the V.T.C.A., Water Code and its implementing regulations.
- Submit \$500 non-refundable filing fee.

I, as the applicant, hereby avow that I am the Owner or authorized agent of the Owner and that the development/project for which this permit is made will comply with the applicable standards required by Article VIII of Chapter 34 of the Code of Ordinances of the City of Baytown, Texas, as well as all applicable federal, state and local laws and regulations.

\_\_\_\_\_  
Applicant's Signature

The Director of Engineering has the right to require the submission of additional information. The permit application shall expire should the applicant fail to respond within 30 days of a request for information

## ARTICLE VIII. - WATERSHED PROTECTION

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### **Sec. 34-421. - Purposes.**

The purposes of this article are to protect the health, safety and general welfare of city residents; to protect public water resources and to improve water quality; to cause the use of management practices by the city and its citizens that will reduce the adverse effects of polluted runoff discharges into waters of the State; to secure benefits from the use of stormwater as a resource; to protect current or potential public water supplies; and to ensure that the city is compliant with applicable state and federal law.

(Ord. No. 10,766, § 1, 12-6-07)

### **Sec. 34-422. - Applicability and exceptions.**

(a) The provisions of this article shall apply within the boundary limits of the city watershed protection map. The areas identified on the watershed map are considered to be essential for the protection of surface water bodies from the effects of point and nonpoint source pollution, sedimentation, erosion and increased turbidity and for the improvement of water quality for existing and future uses by the city, its residents, businesses, visitors and adjacent property owners.

(b) The provisions of this article shall apply to proposed projects or developments within the areas designated as watershed protection zones on the watershed map.

(c) The provisions of this article are subject to the following exceptions:

(1) It is not intended that these regulations interfere with any easements, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of this article shall control.

(2) Existing development is not subject to the requirements of this article.

(3) This article does not apply to otherwise affected property within a watershed protection zone if such land is developed for a single-family residence not a part of a subdivision as defined in section 126-1

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(4) This article does not apply to private noncommercial watercraft facilities used for launching, loading, storage, beaching, mooring or docking on noncommercial docks or access facilities, provided such improvements do not have the capacity to facilitate more than two watercraft at a time, involve no more than 40 linear feet of shoreline structure, and are appurtenant to such private residential or recreational development.

(5) The provisions of this article do not apply to properties subject to an IDA.

(6) The provisions of this article do not apply to any property or project granted a variance pursuant to section 34-428

(Ord. No. 10,766, § 1, 12-6-07; Ord. No. 11,592, § 1, 2-24-11)

**Sec. 34-423. - Definitions.**

The following words, terms and phrases when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

*Developer* means a person who seeks or receives permits for or who undertakes land development activities.

*Development* means any construction, external repair, land disturbing activity, grading, road building, pipe laying, or other activity resulting in a change in the physical characteristics of any parcel or land.

*Director* means the city's director of engineering.

*Existing Development* means lawful land uses, developments and activities existing prior to December 16, 2007.

*IDA* means a valid industrial district agreement in which the city was a party and which was in existence on December 16, 2007. The term expressly excludes any extensions or renewals of such agreements after December 16, 2007.

*Potential contaminating activities* means activities identified as having the potential to discharge contaminants from point or nonpoint sources or increase sedimentation or turbidity of surface water bodies.

*Surface water body* means and refers to lakes, bays, ponds, impounding reservoirs, streams, rivers, creeks, estuaries, marshes, inlets, canals 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 watercourses and bodies of surface water, that are wholly or partially within the boundary of the city.

*Watershed* means any area lying within the drainage basin of any surface water body.

*Watershed protection map* shall mean the map adopted by the city council designating areas as public watersheds and all explanatory matter contained thereon.

*Watershed protection zones* shall mean those areas identified in the watershed map, which the city finds to be critical areas for the protection, preservation and improvement of water quality within the boundaries of the city. An area designated as a watershed protection zone shall include the first 200 feet from the shoreline of a water body appearing in the watershed map as measured by the mean high water level for the affected water body.

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(Ord. No. 10,766, § 1, 12-6-07; Ord. No. 11,592, §§ 2, 3, 2-24-11)

**Sec. 34-424. - Use regulations.**

(a) The following uses and activities, unless exempted from the application of this article or granted a variance pursuant to sections 34-422(c) and 34-428, shall be specifically prohibited within a watershed protection zone:

- (1) Storage or production of hazardous materials as defined in either or both of the following: Superfund Amendment and Reauthorization Act of 1986 and/or Identification and Listing of Hazardous Wastes, 40 CFR § 261;
- (2) Disposal of hazardous materials or solid wastes or operation of a landfill for disposal of such wastes;
- (3) Treatment of hazardous material, except remediation programs authorized by a government agency to treat hazardous material;
- (4) Dry-cleaning, dyeing, printing, photo processing, electroplating and any other business that stores, uses or disposes of hazardous material unless all facilities and equipment are designed and operated to prevent the release or discharge of hazardous materials and have undergone an inspection to certify that they are in compliance with hazardous material regulations;
- (5) Disposal of septage or septic sludge;
- (6) Automobile repair and service stations;
- (7) Airfields, landing strips and heliports;
- (8) Power generating facilities;
- (9) Commercial marinas and barge terminals;
- (10) Bulk storage or terminalling of oil, oil products or chemicals in tanks or vessels with capacities exceeding 500 gallons;
- (11) Junkyards and outdoor storage yards;
- (12) Petroleum product pipelines not within a pipeline corridor in existence on December 16, 2007;
- (13) Truck terminals and truck washing facilities;
- (14) Concrete batch plants, asphalt plants and quarry operations;
- (15) Feedlots and confined animal feeding operations;
- (16) Metal or metal-ore smelting or kiln operations;
- (17) Animal rendering operations;
- (18) Commercial surface coating and painting facilities;

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(19) Marine vessel repair and manufacturing facilities; and

(20) Any other use determined by the director as potentially contaminating activities on a case-by-case basis.

(Ord. No. 10,766, § 1, 12-6-07)

**Sec. 34-425. - Permits and site plans.**

(a) In addition to any required federal or state permits, all land disturbing activity, construction or other development within a watershed protection zone, other than certain exempted activities pursuant to subsection 34-422(c), may be conducted only with a watershed protection zone permit issued by the director and must be in full compliance with the terms of this article and other applicable regulations. All activities that are not permissible as a right or under the authority of a watershed protection zone permit are prohibited.

(b) Applications for a watershed protection zone permit shall be submitted to the director who shall make an initial determination of whether or not a site plan is required based upon subsection (g) of this section.

(c) The following activities and developments are exempt from the requirements for a detailed site plan:

(1) Single-family detached homes constructed within a subdivision of four or fewer parcels;

(2) Repairs to a facility that is part of a previously approved and permitted development, which repairs do not exceed 50 percent of the appraised value of the improvements; and

(3) Construction of minor structures, which are accessory to the primary principal use of a single-family residence, such as a barn, shed or addition to single-family residences.

(d) Except as provided for in subsections 34-422(c) and 34-425(c), all new development within a watershed protection zone shall be required to have a site plan prepared and approved in accordance with this article before any building permits or other development-related permits may be issued or any land-disturbing activity may take place.

(e) Site plans shall comply with the below criteria and shall be submitted upon the request of the director in his review of the application for a watershed protection zone permit.

(1) The site plan shall be drawn to scale showing all planned improvements, including the width, depth, and length of all existing and proposed structures, roads, water courses and drainage ways; water, wastewater and stormwater facilities; and utility installations;

(2) Location, dimensions, and area of impervious surfaces, both existing and proposed, on the site;

(3) The orientation and distance from the boundaries of the proposed site to the nearest bank of the affected stream or water body;

(4) Elevations of the site with grading plans and erosion and sediment control plans showing existing and proposed contours at two feet intervals;

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- (5) Location and detailed design of any spill or leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials or pollutants; and
  - (6) Boundary of any wetlands as defined by § 404 of the Clean Water Act and as defined in the V.T.C.A., Water Code and its implementing regulations.
- (f) At the time of the filing of a watershed protection zone permit application, the applicant shall pay a nonrefundable filing fee in the amount of \$500.00.
- (g) Applications for development within a watershed protection zone will be evaluated by the director to ensure that:
- (1) The development is not a prohibited use as defined by this article;
  - (2) Nonpoint source pollution is prevented to the maximum extent possible, by taking into account site conditions such as slope, soil type and erosivity, and vegetative cover;
  - (3) Management practices are in place sufficient to remove or neutralize those pollutants that present a potential impact to the receiving water body;
  - (4) Grading and removal of vegetation at a development site is minimized and erosion and sediment control measures are in place and properly installed;
  - (5) All sewage disposal systems will be monitored, inspected and maintained on a regular basis to ensure proper functioning; and
  - (6) The development and its operations are consistent with the purposes of this article.
- (h) Persons involved in potentially contaminating activities within a watershed protection zone but which have received a watershed protection zone permit must submit a spill control plan for approval. This plan must include the following elements:
- (1) Disclosure statements describing the types, quantities, and storage locations of all contaminants that will be part of the proposed project;
  - (2) Contaminant handling and spill protection techniques;
  - (3) Spill reporting procedures, including a list of affected agencies to be contacted in the event of a spill; and
  - (4) Spill recovery plans, including a list of available equipment.
- (i) Watershed protection zone permit applications shall be filed with the director. The review process may be extended if the application is incomplete or the city requests additional information. The permit application shall expire should a person fail to respond to request for information from the director within 30 days of such request and a new application and nonrefundable filing fee shall be required.
- (j) Decisions on watershed protection zone permits made by the director may be appealed to the city council upon an applicant's filing of a written notice of appeal with the city clerk within ten days of issuance of the permit decision. The notice of appeal must contain specific information detailing why the application should be granted and/or how the director erred in making any adverse rulings regarding the application.

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(k) If construction described in the watershed protection zone permit has not commenced within 12 months from the date of issuance, the permit shall expire. If construction described in the watershed protection zone permit is suspended after work is commenced, the permit shall expire 12 months after the date the work is ceased.

(l) All development activities or site work conducted after approval of a site plan and issuance of a watershed protection zone permit shall conform to the site plan and all permit provisions.

(Ord. No. 10,766, § 1, 12-6-07)

**Sec. 34-426. - Impact study.**

(a) All applications for watershed protection zone permits shall contain an impact study.

(b) An impact study shall be performed or reviewed and certified by a professional engineer licensed in this state and shall include, at a minimum, the following information:

(1) Description of the proposed project including location and extent of impervious surfaces; on-site processes or storage of materials; the anticipated use of the land and buildings; description of the site including topographic, hydrologic, and vegetative features;

(2) Characteristics of natural runoff on the site and projected runoff with the proposed project, including its rate and chemical characteristics deemed necessary to make an adequate assessment of water quality;

(3) Measures proposed to be employed to reduce the rate of runoff and pollutant loading of runoff from the project area, both during construction and after;

(4) Proposed runoff control and water quality protection measures for the site. These measures shall be designed with the goal of ensuring that the rate of surface water runoff from the site does not exceed pre-development conditions and that the quality of such runoff will not be less than pre-development conditions. Special emphasis shall be placed on the impacts of proposed encroachments into any required buffer; and

(5) Where the developer of the property subject to the terms of this article seeks to utilize existing or planned off-site stormwater quality management facilities, the developer shall provide a written certification that the owner of the off-site facilities will accept the runoff and be responsible for its adequate treatment to a level acceptable to the director.

(c) Such study shall be submitted to the director for review and approval concurrent with the submission of applications for review and approval of site or subdivision plans and applications for watershed protection zone permits.

(Ord. No. 10,766, § 1, 12-6-07)

**Sec. 34-427. - Buffer requirements.**

All new developments within a watershed protection zone, unless otherwise exempted pursuant to subsection 34-422(c), shall be subject to the following buffer requirements:

(1) A 75-foot wide buffer strip shall be maintained along the edge of public water bodies identified on the watershed map. The required setback distance shall be measured from the mean

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high water level of such water body. The buffer strip shall be maintained in its natural state to the maximum extent possible, and shall be planted with an erosion resistant vegetative cover in those areas that have been disturbed. In the case of tributary streams located upstream from a stormwater management facility designed to provide water quality protection, no buffer shall be required if such facility has been designed to accommodate and manage the quality of runoff from the subject site;

(2) All development shall be located outside of the required buffer strip, except the following:

a. The buffer strip requirement shall not apply to development which is appurtenant to the production, supply, distribution or storage of water by a public water supplier;

b. Encroachment into or through the required buffer by roads, main-line utilities, or stormwater management structures may be permitted provided the following performance standards are met:

1. Road and main-line utility crossings will be limited to the shortest path possible and that which causes the least amount of land disturbance and alteration to the hydrology of the watershed;

2. Any stormwater management facilities located within the buffer should be sited within the context of a larger watershed stormwater management program;

3. No more land shall be disturbed than is necessary;

4. Indigenous vegetation shall be preserved to the maximum extent possible; and

5. Wherever possible, disturbed areas shall be planted with indigenous vegetation; and

(3) The following uses shall not be permitted within the buffer strip or within 25 feet of the required buffer strip:

a. Septic tanks and drainfields;

b. Trash containers and dumpsters which are not under roof or which are located so that leachate from the receptacle could escape unfiltered and untreated; and

c. Fuel storage in excess of 50 gallons.

(Ord. No. 10,766, § 1, 12-6-07)

**Sec. 34-428. - Variances.**

(a) Variances to the strict application of this article may only be granted by the city council in accordance with this section.

(b) A variance may not circumvent the general purposes and intent of this article. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the city council must also consider whether the property owner has any reasonable use of the land without the variance, whether the property is used seasonably or year-round, whether the variance is being requested solely on the basis of economic



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considerations, and the characteristics of developments on adjacent properties which may be affected by a variance.

(c) If a variance is approved, the city council shall provide a summary of the public record/testimony and the findings of fact and conclusions which support issuance of the variance.

(Ord. No. 10,766, § 1, 12-6-07; Ord. No. 11,592, § 4, 2-24-11)

**Sec. 34-429. - Enforcement and remedies.**

(a) If the director finds that any of the provisions of this article are being violated, the city shall notify, in writing, the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The director shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or the additions, alternations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this article to ensure compliance with or to prevent violation of its provisions.

(b) As this article is adopted for the benefit of the public health, safety and welfare and to protect the water resources in and adjacent to the city, any violation of this article or engaging in activities prohibited by this article is deemed a public nuisance. In addition to any remedies provided in this article, the city may seek enforcement of this article through its public nuisance remedies.

(c) If any person, developer or landowner is found to be in violation of this article, the city may, in addition to all other remedies available in either law or equity, institute a civil action or proceeding to restrain, correct or abate the violation; to prevent occupancy of the building, structure or land; or to prevent any illegal act, conduct, business or use in or about the premises. The city may, without limitation, pursue any and all remedies such as abatement of nuisances, injunctive relief, administrative adjudication and revocation of licenses or permits in furtherance of enforcement of the article's provisions.

(d) Any person violating any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with section 1-14 of this Code.

(Ord. No. 10,766, § 1, 12-6-07)

**Sec. 34-430. - Watershed protection map adopted by reference.**

For the purposes of this article, the city council hereby adopts the watershed protection map by reference, which is attached to Ordinance No. 11,592 as Exhibit "A" and incorporated herein for all intents and purposes. This map shall be automatically amended without further action by the city council upon annexation and/or disannexation of properties to reflect the city's current boundaries.

(Ord. No. 10,766, § 1, 12-6-07; Ord. No. 11,592, § 5, 2-24-11)