

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

**Effective Date: Jan. 1, 2022**

# HIGHLAND LAKES WATERSHED ORDINANCE

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## **Section 1. TITLE AND SCOPE**

This Ordinance shall be known and may be cited as the LCRA Highland Lakes Watershed Ordinance. This Ordinance shall apply to Development and Quarry/Mine Activities occurring above the Regulated Pool Elevation of the Highland Lakes, including the Lake Travis watershed in Travis County, the portions of Burnet County and Llano County in the Colorado River Watershed identified on the official Ordinance Map, adopted as part of the Ordinance. See Attachment 1 – Ordinance Map.

## **Section 2. AUTHORITY**

This Ordinance is promulgated under the authority of the LCRA Enabling Act, specifically Texas Special District Local Laws Code Chapter 8503 and other applicable law.

## **Section 3. DEFINITIONS**

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

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

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

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

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

**Alternate Standards:** Requirements that may apply to a Single-family Subdivision Development or Commercial Development meeting the performance standards found in Section 5.1(b)(ii)(1) and (2).

**Applicant:** A Landowner or Land User (or their duly authorized designee) who applies for a Permit under this Ordinance or submits a Written Notification under Section 4.1(b) of this Ordinance

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

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

**Board:** The Board of Directors of LCRA.

**Buffer Zone:** Vegetated area free of impervious Cover adjacent to a Creek or natural drainageway.

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

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

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

**Common Plan of Development:** A Development activity that is completed in separate stages, separate phases, or in combination with other development or construction activities in accordance with the LCRA Technical Manual.

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

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

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

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

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

**Dredge or Dredging:** The removal of material from or the removal of structures such a piers, bulkheads, foundations or other similar manmade structures affixed to land located below the stated Regulated Pool Elevations of the Highland Lakes. Activities that may involve Dredging include, but are not limited to, constructing, or maintaining improvements including Shoreline Stabilization, boat ramps, boat slip or canal Excavation or other similar construction along the shoreline or below the Regulated Pool Elevation of the Highland Lakes. The removal of flood debris or other trash that is not embedded into or otherwise affixed to land below the stated Regulated Pool Elevations of the Highland Lakes is excluded from this definition.

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

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

**Existing Development:** Any completed Development and any property that has obtained final plat approval from a governmental entity prior to February 1, 1990, in the Lake Travis Watershed in Travis County or June 1, 1992, in Llano County or Burnet County in the Colorado River Watershed as reflected in Attachment 2.

**Fill:** In the context of Dredge and Fill Activity regulated by the Highland Lakes Dredge and Fill Ordinance, any material, structure, wall, rip-rap or revetment below the Regulated Pool Elevations of the lakes, including any material deposited or placed on the lake bed or along the shoreline that extends above the Regulated Pool Elevation. In the context of Development or Quarry/Mine Activity, the placement of soil, rubble, or any solid material on the land.

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

**Floodway:** the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

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

**Impervious Cover:** A surface that reduces the amount of infiltration of water into the earth (ex. asphalt, building, gravel surface). Impervious cover shall be determined in accordance with the Technical Manual.

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

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

**Land User:** Any Person operating, leasing, renting or having made other arrangements with the Landowner by which the Landowner authorizes use of his or her land.

**LCRA:** Lower Colorado River Authority

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

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

**LCRA Technical Manual:** The manual developed by LCRA that provides technical guidance and criteria for achieving the performance standards set forth in Section 5 of this Ordinance. The LCRA Technical Manual, including amendments thereto that have been or will be made pursuant to Section 13.2 of this Ordinance, is incorporated herein by reference as if set forth in full. The Technical Manual can be found at [www.lcra.org/hlwo](http://www.lcra.org/hlwo).

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

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

**Mine:** An Excavation in the earth from which ores, coal, limestone or other mineral substances are being or have been removed by excavation or other mining methods. A Mine shall include an area of land or surface actively or previously mined for the production of dimension stone, crushed or broken stone, construction sand and gravel, clay, and/or industrial sand. The portion of a Mine that Excavates below the Regulated Pool Elevation of the Highland Lakes is subject to LCRA's Highland Lakes Dredge and Fill Ordinance.

**Neighboring Property Owner:** Any Person who owns property located within 500 feet of a Site or within 1000 feet of the project limits for which LCRA has received an application for a Permit pursuant to this Ordinance.

**Ordinance:** Highland Lake Watershed Ordinance. This Ordinance is successor to the Lake Travis Nonpoint Source Pollution Control Ordinance and the Upper Highland Lakes Nonpoint Source Pollution Control Ordinance.

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

**Permit:** An authorization issued by LCRA in accordance with the procedures prescribed in this Ordinance for control of Stormwater Runoff Pollution resulting from Development and Quarry activities.



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

**Permittee:** A Landowner, Land User, or Quarry/Mine Operator authorized to undertake land Development and/or Quarry/Mine activities pursuant to a Permit granted according to the provisions of this Ordinance.

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

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

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

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

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

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

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

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

**Quarry/Mine Exploration:** Activities including but not limited to access clearing up to 20 feet width, core drilling, testing, and sampling to determine Aggregate type and volume.

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

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

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

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

**Redevelopment:** Any rebuilding, renovation, replat of property, revisions, remodel, reconstruction of an Existing Development.

**Regulated Pool Elevation:** For each of the Highland Lakes, this term means:

Lake Travis: 681 feet above mean sea level (feet msl)

Lake Marble Falls: 738 feet msl

Lake LBJ: 825 feet msl

Inks Lake: 888 feet msl

Lake Buchanan: 1,020 feet msl

**Sedimentation:** Deposition of detached soil particles.

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

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

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

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

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

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

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

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

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

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

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

## **Section 4. PERMIT DETERMINATION**

### **4.1 Development Activity**

#### **(a) Exemptions.**

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

- (i) Development within a Political Subdivision that has adopted and maintains in effect LCRA's Ordinance and enters into an inter-local agreement with LCRA;
- (ii) Development within a Political Subdivision that has adopted an Ordinance that LCRA determines provides for management of stormwater Pollution that is equal to or greater than that provided by this Ordinance and the Political Subdivision enters into an interlocal agreement with LCRA agreeing that the Ordinance shall apply to any Development that receives an exemption, waiver or variance from the Municipal Ordinance if such exemption, waiver or variance will cause significant Stormwater Runoff Pollution; or
- (iii) Agricultural Activities as defined in this Ordinance.

#### **(b) Written Notification.**

Landowners or Land Users who conduct Development or Redevelopment within the area subject to the jurisdiction of this Ordinance shall be allowed to conduct such activities **without obtaining a Permit provided that** the Development or Redevelopment:

- (i) Meets the Buffer Zone Performance Standards of Section 5.1(c), and

(ii) Meets the Erosion and Sedimentation Control Performance Standards of Section 5.1(d)(i) and (ii) and falls under one or more of the following categories:

- a. Development or Redevelopment located on a property that obtained final plat approval from a governmental entity prior to February 1, 1990, in the Lake Travis watershed in Travis County, or June 1, 1992, in Llano County or Burnet County in the Colorado River Watershed; provided that the subject property has not been replatted after February 1, 1990 in Travis County or June 1, 1992 in Burnet and Llano counties;
- b. Development, including a Single-family Residence that creates less than 10,000 square feet of Impervious Cover and less than one acre of land is Disturbed;
- c. Development of a Single-family Residence that creates more than 10,000 square feet of Impervious Cover, less than one acre of land is Disturbed and the Site complies with the downstream buffer guidelines found in the LCRA Technical Manual;
- d. Existing Development; or
- e. Redevelopment that results in a cumulative increase in Impervious Cover of less than 10,000 square feet and less than one acre of land is Disturbed.

In the written notification, the Applicant shall demonstrate how the activity falls within the provisions of Section 4.1(b).

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

**(c) Development Permit.**

A Development Permit is required for:

- (i) Development or Redevelopment that creates more than 10,000 square feet of Impervious Cover or Disturbs more than one (1) acre of land or is unable to satisfy the conditions found in Section 4.1(a) or 4.1(b); or
- (ii) Development or Redevelopment of a subdivision or any part of Common Plan of Development that will result in more than 10,000 square feet of Impervious Cover. A Development activity is part of a Common Plan of Development if it is completed in separate stages, phases or in combination with other construction activities.

Development or Redevelopment activity authorized by a Development Permit shall be subject to the performance standards found in Section 5.1 and all other applicable requirements of this Ordinance.

**(d) BMP Maintenance Permit.**

A BMP Maintenance Permit shall be issued to the developer or his assignee upon completion of construction of the infrastructure and permanent structural BMP facilities required by the Development Permit and receipt of the engineer's certification. In the event that the Landowner, maintenance association or Property Owner's Association does not accept the assignment, the developer shall remain subject to the terms of the Development Permit or BMP Maintenance Permit, as applicable, until an assignment occurs or until the maintenance association, Property Owner's Association, or Landowner accepts issuance of a BMP Maintenance Permit.

**(e) General Utility Permit.**

A General Utility Permit may be obtained in lieu of a Development permit for routine utility construction or maintenance as described in the Technical Manual.

- (i) If the utility project proposes Impervious Cover that is greater than what is described in Section 4.1(b), a Development Permit is required.
- (ii) A General Utility Permit holder must operate construction Sites pursuant to this Ordinance and the LCRA Technical Manual.
- (iii) A General Utility Permit holder shall submit a notice of intent prior to commencing construction on any utility project.
- (iv) A General Utility Permit holder shall comply with the Performance Standards found in Section 5.1.

**4.2 Quarry/Mine Activity**

**(a) Exemptions.**

The following Quarry/Mine Activities are exempt from the provisions of this Ordinance and are not required to file an application or obtain a Permit pursuant to this Ordinance:

- (i) **Quarry or Mine Exploration** by a Quarry/Mine Owner or Operator to obtain Aggregate samples for determining viability of a property as a Quarry or Mine. Materials obtained are not to be used for commercial sale. Clearing for access for quarry exploration may not exceed 20 feet width under this provision. Quarry/Mine Exploration that Disturbs more than one (1) acre of land must consider the preparation of a Stormwater Pollution Prevention Plan per the TCEQ Construction Stormwater General Permit. No submittals are necessary to LCRA.

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

(1) Development, as defined in this Ordinance and part of a Quarry/Mine shall be subject to the applicable provisions in this Ordinance, including Section 4.1, regarding Development Permits.

(2) Acknowledged Quarries and Mines are encouraged to contact LCRA to gain input in a voluntary advisory role on recommendations toward the protection of ground and surface water quality.

**(b) Written Notification.**

Landowners or Land Users who conduct Quarry and Mine activities shall be allowed to conduct such activities **without obtaining a Permit** if the Quarry or Mine activities create less than 10,000 square feet of Impervious Cover and will Disturb less than five (5) acres of land, provided that the following conditions are met. Written notification to LCRA is required prior to commencing the activity. In the written notification, the Applicant shall demonstrate how the activity falls within the provisions of this Section 4.2(b).

(i) The activities are located outside of a Buffer Zone,

(ii) Erosion and Sedimentation Control is provided in accordance with Section 5.2(d), and

(iii) Final Stabilization is achieved.

**(c) Quarry/Mine Certification.**

A property that is owned or leased by a Quarry/Mine Owner or Operator as evidenced by a deed, existing lease or provides reasonable evidence of possession and use as of March 1, 2007 (effective date of Quarry and Mine ordinance amendments), does not have an Active Quarry or Mine, and proposes Quarry or Mine activities that will create more than 10,000 square feet of Impervious Cover or will Disturb more than five (5) acres of land shall submit an application pursuant to Section 6 and be subject to the performance standards in Section 5.2 and all other applicable requirements of this Ordinance.

**(d) Quarry/Mine Permit**

A property that is owned or leased by a Quarry/Mine Owner or Operator as evidenced by a lease or deed and is leased or acquired after March 1, 2007 (effective date of Quarry and Mine ordinance amendments) and proposes Quarry or Mine activities that will create more than 10,000 square feet of Impervious Cover or will Disturb more than five (5) acres of land and does not have an Active Quarry or Mine shall submit an application pursuant to Section 6 and be subject to performance standards in Section 5.2 and all other applicable requirements of this Ordinance. Development activities within the boundaries of a Quarry or Mine shall be regulated pursuant to the requirements in Section 4.1 of this Ordinance. However, any Development Permit provisions and requirements shall be combined with the provisions and conditions of the Quarry/Mine Permit so as to only require a Quarry or Mine to file a single, combined, Development and Quarry/Mine Permit Application.

**Section 5. WATER QUALITY PERFORMANCE STANDARDS**

**5.1 DEVELOPMENT ACTIVITY**

All Development required to obtain a Development Permit shall achieve the following performance standards:

**(a) Pre-development Planning.**

A pre-development/concept plan meeting attended by the Applicant and LCRA is required prior to permit application for all Single-family Development greater than 20 acres in area and all Commercial Development greater than three acres in area.

**(b) Water Quality Management.**

(i) **Water Quality Volume.** For the protection of water quality and drainage ways from channel Erosion and Stormwater Runoff Pollution, each Development project subject to these performance standards shall provide water quality volume in approved BMPs found in the LCRA Technical Manual. The required water quality volume is based on the one-year storm runoff volume as defined in the LCRA Technical Manual. In addition, Low Impact Development methodologies as identified in the LCRA Technical Manual may be used to reduce or avoid stormwater storage volume requirements.

(ii) **Alternate Standards.** Development that meets the following criteria need not comply with Section 5.1(b)(i).

(1) Single Family Residential Development

a. Having site gross Impervious Cover of 15 percent or less and cluster development

sections of 20 percent or less gross Impervious Cover; and

- b. Having a street and draining network designed to preserve existing drainage patterns and maintain sheet flow.

(2) Commercial Development

- a. Having a developed area of less than three acres in area or site gross Impervious Cover of 15 percent or less may achieve compliance with this section through the use of vegetated filter strips and flow spreading methodologies as identified in the LCRA Technical Manual.

- (3) Impervious Cover credits prescribed in the LCRA Technical Manual may be used to gain compliance with this Section.

- (iii) **BMP Maintenance.** BMPs constructed pursuant to a Development permit shall be maintained according to the LCRA Technical Manual.

**(c) Buffer Zones.**

Buffer Zones are intended to protect waterways and aquatic resources from the short and long term impacts of Development activities. Buffer Zones shall remain free of construction, Development, or other alterations except for utility and roadway crossings, low impact park development, and stormwater detention structures designed in accordance with the Technical Manual. The number of crossings through Buffer Zones shall be minimized according to the guidance located in the Technical Manual. Stormwater treatment facilities, golf courses, septic systems or wastewater irrigation may not be located in the Buffer Zone. Stormwater discharge from the Development shall be dispersed into overland patterns before reaching the Buffer Zone.

- (i) **Buffer Zones in Burnet and Llano Counties Requirements:** A Buffer Zone shall be established at a width of 25 feet from the top of the channel bank on both sides of the Creek. Buffer Zone requirements apply to Creeks or swales draining more than 5 acres of area, excluding roadside swales.

**(ii) Buffer Zones in Travis County.**

(1) Option 1: Buffer Zones

- a. Creeks or swales draining less than 40 acres but more than five acres, excluding roadside swales, shall have a minimum buffer width of 25 feet from the centerline of the Creek or swale.
- b. Creeks or swales draining less than 128 acres but more than 40 acres shall have a



minimum buffer width of 75 feet from the centerline of the Creek or swale.

- c. Creeks draining less than 320 acres but more than 128 acres shall have a minimum buffer width of 100 feet from the centerline of the Creek or swale.
- d. Creeks draining less than 640 acres but more than 320 acres shall have a minimum buffer width of 200 feet from the centerline of the Creek or swale.
- e. Creeks draining 640 acres or greater shall have a minimum buffer width of 300 feet from the centerline of the Creek or swale.

(2) Option 2: Floodplain Buffer Zone.

- a. For Creeks or rivers draining less than 40 square miles but more than five acres, excluding roadside swales, the Buffer Zone shall extend a minimum of 25 feet from the 100-year floodplain boundary paralleling each side of the Creek or swale. The 100-year floodplain shall be based on the fully developed conditions as approved by LCRA.
- b. For Creeks or rivers draining more than 40 square miles, the Buffer Zone shall be considered equal to the 100-year floodplain as designated by Federal Emergency Management Agency or by an engineered floodplain study approved by LCRA.

**(d) Erosion and Sedimentation Control.**

Erosion and Sedimentation shall be controlled throughout the Development process in accordance with the LCRA Technical Manual.

- (i) Development of and adherence to a TCEQ SWPPP prepared in accordance with the Technical Manual shall be considered to meet the requirement for Erosion and Sedimentation control. The Permittee shall make the SWPPP inspection records and reports available to LCRA upon request.
- (ii) Site disturbance must be phased to limit soil Erosion, and Final Stabilization shall be accomplished with each phase.
- (iii) The length of time between clearing and final revegetation of development may not exceed 18 months, unless extended in writing by LCRA.
- (iv) A permit cannot be issued for another project within a Common Plan of Development if other projects within that Common Plan has not achieved temporary or final stabilization within three (3) months of project or phase completion or if another project within the Common Plan is in violation of the Ordinance.

- (v) The owner shall designate a responsible party for compliance with the erosion and sedimentation control and water quality management standards during development.

**(e) Water Quality Education.**

A Permittee shall implement a water quality education program using LCRA and/or other LCRA approved water quality education materials that focus on water quality protection.

**(f) Monitoring and Reporting.**

If a project proposes Innovative BMPs, LCRA may require, as a condition of issuing a Permit, water quality performance monitoring of certain BMPs. Water quality monitoring shall last a period of at least three years. The cost of monitoring will be borne by the Applicant. During the monitoring period, the Applicant shall submit annual reports showing the results of the monitoring efforts. The pollutant parameters to be monitored shall be determined at the time of Permit issuance. The monitoring and reporting must be satisfactory prior to issuance of the BMP Maintenance Permit. An irrevocable letter of credit equal in value to the permanent BMPs must be posted prior to the issuance of this Permit and survive the monitoring period.

**(g) Other Permits and Approvals**

- (i) All applicable permits and authorizations for the proposed operations must be applied for and obtained. This includes, but is not limited to, any applicable LCRA permits, including permits and authorizations required pursuant to the Highland Lakes Marina Ordinance, Highland Lakes Dredge and Fill Ordinance, the On-Site Sewage Facilities program, real estate agreements, or water supply contracts, and any applicable Texas Commission on Environmental Quality, Army Corps of Engineers, and Texas Parks and Wildlife Department permits or authorizations. The Permits, authorizations, and contracts required pursuant to LCRA's programs and regulations shall be obtained in the order determined by LCRA.
- (ii) Development and Quarry/Mine activities shall comply with all applicable local, state, and federal statutes and regulations, including any applicable local government orders and decisions from courts with applicable jurisdiction.

**5.2 QUARRY AND MINE ACTIVITY**

All Mines and Quarries required to obtain a Quarry/Mine Certification or Permit shall achieve the following performance standards:

**(a) Pre-Quarry/Mine Planning.**

A concept plan meeting shall occur for all Quarry/Mine Projects that are subject to obtaining a Certification or Permit per Section 4.2.

**(b) Water Quality Management.**

**(i) Project Area not Discharging to Pit**

(1) For the protection of water quality, Mine and Quarry projects subject to these performance standards shall provide water quality volume in approved BMPs found in the LCRA Technical Manual. Mine and quarry projects may use Low Impact Development methodologies as identified in the LCRA Technical Manual to reduce or avoid stormwater storage volume requirements. A BMP Maintenance Plan is required for these facilities.

(2) The required water quality volume for parking lots, drives, buildings, and similar construction shall be the one-year (3-hour) storm runoff volume as defined in the LCRA Technical Manual.

(3) The required water quality volume for areas of exposed material stockpiles and non-stabilized active areas not draining to the Pit is based on the 10-year (24-hour) storm runoff volume as defined in the LCRA Technical Manual.

**(ii) Project Area Discharging to the Pit**

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

(2) The runoff volume is derived from contributing drainage area to the Pit.

(3) Karst features shall be protected in order to prevent sediment from infiltrating with Stormwater Runoff.

(4) Recharge features with a surface opening greater than one square foot in area that are located on the floor of the quarry or mine shall be sealed or protected in order to prevent sediment from infiltrating with Stormwater Runoff.

**(iii) Other Local, State, and Federal Regulations**

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

- a. EPA – NPDES permit, Spill Prevention Control, Containment, and Countermeasures MSHA/OSHA- Hazard Communications Plan
- b. US Army Corps of Engineers – 404 permits and/or letters of permission if necessary TCEQ – TPDES Industrial Sector Permit, Multi-Sector General Stormwater Permit and Stormwater Pollution Prevention Plan
- c. TPWD – Marl, Sand, and Gravel Mining in Public Waters of the State

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

#### **(iv) Submittals to LCRA**

(1) LCRA may require an applicant to submit certain information dependent upon the site conditions, planned Quarry or Mine activities, size of Quarry or Mine, and depth of Excavation. The necessary submittals will be determined in the Pre-quarry/mine planning meeting found in Section 5.2(a) of this Ordinance. LCRA will make a determination based upon sound science and professional standards for the appropriate submittals determined after its Pre-quarry/mine planning discussion with the applicant and the project's potential impacts on water quality. The following submittals may be required:

- a. **Hydrologic report** prepared by a licensed professional engineer in Texas defining impoundments, streams, floodplains, and proposed drainage diversions including water quality BMPs within the proposed mine or quarry property boundary.
- b. **Hydrogeologic report** prepared by a licensed professional geologist in Texas containing the aquifer identification, aquifer characteristics, drastic classification, recharge zones, any karst features and depth to water on the site, well inventory and/or springs within one mile of proposed mine or quarry property boundary and identify measures to protect groundwater recharge. The applicant must demonstrate compliance with setbacks from recharge features and public water supply wells according to the TCEQ source water protection program and if applicable, Groundwater Conservation District requirements.
- c. **A mine or quarry plan** showing proposed mine or quarry boundaries, property limits, mining limits, approximate mining depths, drainage plan, creek crossings, diversions, a list of BMPs proposed for mined out areas as temporary sedimentation basins, and

the type of mine or quarry proposed.

- d. **A surface water monitoring plan** to supplement the TCEQ Multi-Sector General Stormwater Permit requirements. The owner/operator can use the TCEQ Multi Sector General Stormwater Permit as the plan, but must monitor four (4) events per year and provide data in the annual report. Parameters tested in the monitoring plan may include but are not limited to Total Suspended Sediment, pH, oil and grease, and Total Organic Carbon.
- e. **A general reclamation guidance plan** detailing potential final measures to protect water quality and maintain ordinance compliance once the Mining and Quarrying activities are complete.

(2) The applicant shall utilize the reports/plans listed in Section 5.2(b) above to design and utilize the appropriate water quality protection measures found in the LCRA Technical Manual to protect surface and groundwater quality.

**(c) Buffer Zones.**

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

- (i) For Creeks or rivers draining more than 320 acres, the Buffer zone shall be a minimum width of twenty-five (25) feet from the top of the channel bank (as determined in hydrologic report) on each side of the creek/river. However, if the floodway boundary is beyond twenty five (25) feet from the top of the channel bank, the buffer zone shall be established at the floodway limit. The floodway may be determined from Federal Emergency Management Agency information or by an engineering study that is signed and sealed by a registered, licensed engineer. If the floodway is determined by an engineering study, the floodway shall be based on the fully developed conditions for the 100-year flood as approved by LCRA.
- (ii) Sand and gravel operations obtaining a Texas Parks and Wildlife Department Sand, Gravel, Shell, and Marl or US Army Corps of Engineers authorization may be eligible for a variance from the buffer zone requirements found in this ordinance.

**(d) Erosion and Sedimentation Control.**

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

- (i) Development of and adherence to a SWPPP prepared in accordance with the Technical Manual shall be considered to meet the requirement for Erosion and Sedimentation control. The Permittee shall make the SWPPP inspection records and reports available to LCRA upon request.

**(e) Groundwater Quality Protection and Monitoring.**

- (i) **Proposed Plan.** Based on site conditions, proposed activity, hydrogeologic report, and other submittals pursuant to Section 5.2(b)(iv), Submittals to LCRA, LCRA may require monitoring wells for water levels and water quality determination including background and down-gradient conditions. The sample frequency will be proposed by the applicant and approved by LCRA during the permit application process, based on professional practices regulated by the Texas Board of Professional Geoscientists and/or the Texas Board of Professional Engineers. A groundwater sampling plan will be prepared and parameters may include but not limited to water level or flow, pH, nitrate-nitrogen, Total Suspended Sediment, Volatile Organic Compounds, Total Organic Carbon and Total Dissolved Solids. If a groundwater district has jurisdiction, the sampling plan shall be designed to comply with the district guidelines.

- (1) **Background Conditions.** Background conditions may be established by adoption of historical data at existing wells or springs or by data collected by the applicant during operations, and/or by installation of monitoring wells and sampling of wells and springs up-gradient from the mine or quarry.

- (2) **Down-gradient Conditions.** Down-gradient monitoring may be required at wells and/or springs that could potentially be affected by quarry operations. New or existing wells may be used with well screens set at the appropriate interval recommended in the applicants' hydrogeologic report. Spring flow may be monitored at the spring outlet or by measurements and samples taken upstream and downstream of the spring. Monitoring sites should be selected at locations that would isolate the effects of mining from other activities, if possible.

- (ii) **Design.** The data from Section 5.2(e) shall be used to determine appropriate BMPs to protect groundwater quality, including structural and non-structural best management practices used in pits which collect runoff at the site.

(iii) **Operation Phase, Mitigation.** If sampling, required pursuant to Section 5.2(e)(i), verifies a contamination or potential contamination of ground water quality as a result of the Quarry/Mine activity, the Owner/Operator shall prepare a mitigation plan for LCRA approval within 30 days of notification from LCRA. Implementation of the mitigation plan shall occur within 60 days of LCRA's approval of the plan.

(iv) **Reclamation/Closure.** Once the Quarry or Mine operation is properly closed/reclaimed, the monitoring plan established pursuant to Section 5.2(e) may be terminated with proper closure and protection of all monitoring wells per the Texas Department of Licensing and Regulations Water Well Drillers Rules (Water Well Drillers located in the Texas Administrative Code and the statutory requirements of Chapter 1901, Texas Occupations Code, Title 12. Practices and Trades Related to Water, Health, and Safety).

**(f) Reporting.**

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

**Section 6. APPLICATION PROCESSING**

**6.1 Permit Process for Development or Quarry/Mine Projects**

**(a) Pre-Application Planning Meetings.**

A meeting attended by the applicant and LCRA is required prior to permit application for the following activities.

- (i) Development of a Single-family Development greater than 20 acres in area, and all Commercial Development greater than three acres in area.
  
- (ii) Any Quarry/Mine project subject to receiving a Quarry/Mine Permit or Certification.

**(b) Preparation of Permit Applications.**

Permit applications shall be prepared in accordance with this Ordinance and the LCRA Technical Manual that is posted on [www.lcra.org](http://www.lcra.org), which is incorporated herein by reference as if set forth in

full and which may be amended from time to time in accordance with Section 13.2 of this Ordinance.

**(c) Application Fees.**

The application fees shall be as described in the fee schedule approved by the Board. The fee schedule may be amended from time to time by the Board in accordance with Section 13.2 of this Ordinance. The fee schedule is located in the LCRA Technical Manual and on [www.lcra.org](http://www.lcra.org).

**(d) Review of Application.**

**(i) Acceptance of Application and Commencement of Administrative Review.**

An application for Permit shall be considered to have been filed on the date that it is stamped received by LCRA staff at the LCRA General Office Complex on Lake Austin Boulevard in Austin, Texas, or, if filed electronically, on the next Business Day after submittal. LCRA staff shall not accept for filing any Application that has not been signed or, if filed electronically, certified and accompanied by the appropriate Application fee or before a planning meeting has taken place, if required.

**(ii) Administratively Incomplete Applications.**

Upon receipt of an application, LCRA shall conduct an administrative review of the application to determine if the required information for an application has been submitted. An administrative review is not a technical or substantive review of the information submitted in an application. If the application is determined to be administratively incomplete, LCRA staff shall notify the Applicant in writing within 10 calendar days after the date the Application is received. The Applicant shall submit additional information within 35 calendar days after the date of the letter notifying the Applicant of the deficiencies. If the Applicant does not submit the required additional information within 35 calendar days, the Application may be returned to the Applicant and the Application is considered withdrawn. The application fees will be refunded in accordance with the fee schedule.

**(iii) Technical Review.**

After LCRA determines an application to be administratively complete, LCRA shall commence a technical review of the Permit application for a period of time not to exceed 30 calendar days for a Development or Quarry/Mine Permit, 21 calendar days for an Alternate Standards Development Permit or 15 calendar days for a Quarry Certification, General Utility Permit or BMP Maintenance Permit. LCRA shall promptly notify the Applicant of any additional information that may be necessary for a complete staff review. If LCRA does not meet the above review times, the application fees will be refunded in accordance with the fee schedule. If the Applicant unilaterally



provides additional information, requests a variance, or revises the application within the technical review period, the technical review shall be extended for 30 calendar days.

**(iv) Subsequent Technical Reviews.**

If more information is needed to complete the technical review or if LCRA determines that the application does not meet the required performance standards, an Applicant shall have 30 calendar days to submit additional information or revise the application from the date of receipt of an information request from LCRA. If the Applicant provides the additional information or revises the application within the 30 calendar day period, the technical review shall be extended for no more than 15 calendar days. In the absence of an approved written request for extension pursuant to Section 6.1(d)(iv), if the Applicant does not provide the additional information within the 30 calendar day period, the application is considered withdrawn and LCRA may return the application and all or part of the fees to the Applicant. The Applicant must resubmit a new application with the appropriate fees.

**(v) Extension of Time to Provide Requested Information or Abatement Due to Pending Permits.**

An Applicant may request an extension of time to provide the information requested by staff during the administrative or technical review. Requests for extensions shall be in writing and shall explain in detail the need for additional time. Such requests shall be approved in writing by LCRA, which approval shall not be unreasonably withheld. With the exception of requests for extensions due to delays resulting from permits and authorizations from other regulatory entities, in no event shall the cumulative amount of time granted to an Applicant exceed six months from the date that the application for a Permit was filed. Technical review may be abated by staff if a Tier III Dredge and Fill permit is also being requested under the Highland Lakes Dredge and Fill Ordinance or at Applicant's request based on to delays resulting from processing of Applicant's other permits. Such abatement must be requested or re-evaluated every six months but shall not exceed a cumulative period of three years, unless supported by good cause. If an extension or abatement expires without action, the Application is considered withdrawn and the Applicant must resubmit a new Application with the appropriate fees. The LCRA General Manager will determine if good cause exists.

**(e) Notice of the Application.**

During the technical review period described in Section 6.1(d)(iii):

**(i) Posted Notice**

The Applicant shall post notice of the application on the Site of the proposed Development, or Quarry/Mine activity in a location where it can be easily viewed by the public with a sign provided by

LCRA. The notice shall state the name and mailing address of the Applicant; that LCRA has determined that the application is administratively complete; the location of the Site; the type of Permit, approval or authorization the Applicant is seeking; project description; list variances being requested, if any; and that comments on the application may be made by any interested Person.

**(ii) Mailed Notice to Neighboring Property Owners.**

During the technical review period described in Section 6.1(d)(iii), the Applicant shall mail, by first class mail, notice of the application to persons who own property located within 500 feet of the Site or within 1,000 feet of the project limits. The names and addresses of the Neighboring Property Owners shall be determined by the Applicant based upon records from the appropriate County Tax Appraisal District submitted as part of a complete application. The notice shall state the name and address of the Applicant; that LCRA has determined that the application is administratively complete; the location of the Site; the type of Permit, approval or authorization the Applicant is seeking; project description; list variances being requested, if any; and that comments on the application may be made by any interested Person. The Applicant shall bear the cost of mailing the required notices.

**(iii) Mailed Notice for Quarry/Mine Activity.**

In addition to mailed notice to Property Owners, applicants seeking a Quarry/Mine permit or Certification shall contact via mail officials of the nearby municipalities, county, and if applicable, groundwater conservation district.

**(f) Comments.**

Written comments concerning the application may be made by any Person.

- (i) For Development Permit or Master Plan, or Quarry/Mine Certification applications, such comments will be accepted by LCRA for 15 calendar days after the mailed notice postmark date.
- (ii) For Quarry/Mine Permit applications, such comments will be accepted for 30 days after the date of the mailed notice postmark date.

All Persons who provided written comments will, upon request to LCRA, receive a copy of the application, updates, and permit decision subject to the Public Information Act.

**(g) Public Meetings for Development or Quarry/Mine Permits.**

- (i) LCRA may hold a formal public meeting to consider a Development or Quarry/Mine permit after expiration of the public comment period and upon the request of the Applicant, any

other Affected Person, or if LCRA determines that there is a Substantial Public Interest. For purposes of this subsection, "Substantial Public Interest" is demonstrated if a request for a public meeting is filed by: a local governmental entity with jurisdiction where the proposed Development or Quarry/Mine activity would occur; or a substantial percentage of property owners or businesses with an affected interest. The request must be made in writing and received by LCRA within 10 calendar days after the close of the public comment period described in Section 6.1(f). The request must include the following information:

- (1) The name, mailing address, and phone number of the Person making the request;
- (2) A brief description of the interest of the Person making the request, or of Persons represented by the Person making the request; and
- (3) Identification of the specific performance standard(s) that the Development, or Quarry/Mine activities will or will not meet.

(ii) If LCRA decides to hold a public meeting in accordance with Section 6.1(g)(i), all Persons who have submitted timely written comments or a written request for a public meeting shall be advised of the date, time and place of the public meeting and invited to attend. The public meeting shall occur within 60 calendar days, subject to meeting location availability.

(iii) If a public meeting is held, the comment period shall be extended until the public meeting is concluded.

**(h) Notice and Public Meetings for Multiple LCRA Permits.**

If the Applicant requires other permits from LCRA for the Project that also provide for, or require, public notice, public comment, or public meetings, LCRA may, at its discretion, modify the above notice and comment procedures to allow for a combined notice, comment, and public meeting process.

**(i) Financial Security.**

Approval of a Permit or Certification application is contingent upon the establishment of financial security acceptable to LCRA in an amount which provides for the installation and maintenance of temporary Erosion and Sedimentation controls and Site stabilization (not including Quarry/Mine Reclamation), in accordance with the Permit and any other provision of this Ordinance. The amount shall not be less than 100 percent of the cost as estimated by the professional engineer who seals the application materials as approved by LCRA. The financial security shall be released after the

completion of permit or certification requirements including final inspection and release by LCRA, and approval of any required BMP Maintenance Permits. For Quarry/Mine activity, financial security shall be released after the Excavation is sufficient to retain the runoff from the 10-year (24-hour) storm from the contributing drainage area and the permanent BMPs for areas not draining to the quarry are complete and stabilized.

**(j) Permit Decision.**

After the close of public comment, LCRA staff will consider all timely public comments and either issue a Permit or Certification after the Applicant has demonstrated compliance with the requirements of this Ordinance or deny a Permit or Certification application if the Applicant is unable to demonstrate compliance with the requirements of this Ordinance.

**(k) Duration of Permit or Certification.**

(1) A Development Permit, unless terminated pursuant to Section 6.1(m) or Section 9.3, shall be valid for three years.

(2) A Quarry/Mine Permit or Certification, unless terminated pursuant to Section 6.1(m) or Section 9.3, shall be in effect for the duration of the Quarry/Mine operations.

(3) A General Utility Permit shall be valid for five years.

(4) A BMP Maintenance Permit is valid for the life of the Development.

**(l) Permit Extension.**

A Permittee may request a one-time Permit extension for a period not to exceed an additional 18 months. Requests for extensions shall be in writing and shall explain in detail the need for additional time.

**(m) Termination.**

Permit or Certification shall automatically terminate if the Permittee or Operator has not commenced Development or Quarry/Mine activities within three years from the date of issuance of the Permit or Certification. Pursuant to Section 9.3, a Permit or Certification may be terminated by revocation upon violation of a condition to the Permit. Upon termination of a Permit or Certification, LCRA may call on the irrevocable letter of credit or other financial security to provide permanent stabilization of the Site.

## **6.2 Master Plan/Phased Development Procedures.**

When a Phased Development is proposed, the Permit application shall be submitted and processed in accordance with these procedures.

### **(a) Submittal of Master Plan Application.**

Submittal and approval of a Master Plan shall occur prior to approval of a Development Permit. Applications submitted for projects that are intended to be developed in phases shall be approved in a two-step process. Upon approval of the Master Plan, the Applicant shall complete a Development Permit application for the first phase and each subsequent phase of the project. A Development Permit shall be issued for each phase of the Development. Landowners or Land Users whose Phased Development requires issuance of multiple Development Permits shall prepare an application for Phased Development in accordance with the LCRA Technical Manual available on [www.lcra.org](http://www.lcra.org), which is incorporated herein by reference as if set forth in full and which may be amended from time to time in accordance with Section 13.2 of this Ordinance.

- (i) The application shall include a Master Plan of the entire project for review by LCRA. The Master Plan shall demonstrate that the project can be developed in compliance with the applicable provisions of the Ordinance;
- (ii) The application shall include an application fee as described in the fee schedule approved by the Board and available on [www.lcra.org](http://www.lcra.org); and
- (iii) all other information deemed necessary by LCRA to demonstrate compliance with the Ordinance.

### **(b) Technical Review of a Master Plan Application.**

After the acceptance of the application by LCRA, LCRA shall commence a technical review of the application for a period of time not to exceed 30 calendar days. The Applicant shall be promptly notified of any additional information that may be necessary for a complete staff review. If LCRA does not meet this timeframe, the application fees will be refunded in accordance with the fee schedule.

### **(c) Subsequent Technical Reviews of Master Plan.**

If more information is needed to complete the technical review, or if LCRA determines that the application does not meet the required performance standards, an Applicant shall have 30 calendar days to submit additional information or revise the application from the date of receipt of an information request from LCRA. If the Applicant provides the information or revises the application within the 30 calendar-day period, the technical review shall be extended no more than 15 calendar days. In the absence of an approved written request for extension pursuant to Section 6.1(d)(v), if

the Applicant does not provide the additional information within the 30 calendar-day period, the application is considered withdrawn and LCRA may return the application and all or part of the fees to the Applicant. The Applicant must submit a new application with the appropriate fees.

**(d) Notice of the Application for Master Plan.**

Notice of the application and the Master Plan shall be posted and mailed in accordance with the applicable provisions of Section 6.1(e).

**(e) Comments and Public Meetings.**

Written comments shall be received and public meetings may be conducted in accordance with the Sections 6.1(f) and 6.1(g).

**(f) Master Plan Approval.**

LCRA staff will consider all public comments and either approve the Master Plan after the Applicant has demonstrated compliance with the requirements of this Ordinance or deny a Master Plan application if the Applicant is unable to demonstrate compliance with the requirements of this Ordinance. Upon approval of the Master Plan, the Applicant shall be entitled to develop the project in accordance with the standards in effect on the date of LCRA's approval and in accordance with applicable state law. However, LCRA's Technical Manual may be revised from time to time, and revisions may reflect changes or alterations in certain BMPs relative to their ability to achieve the standard. Approval of a Master Plan does not exempt a Development from compliance with revisions to the LCRA Technical Manual.

**(g) Duration.**

(1) The Applicant shall have one year from the date of approval of the Master Plan to submit a completed Permit application for the first phase of the project, or the approval of the Master Plan shall become null and void.

(2) Should the Development Permit for the first phase of the Development of the project be terminated due to lack of activity as provided in Section 6.1(m) or if termination occurs pursuant to 9.3, the Master Plan approval shall become null and void.

(3) The Applicant shall have five years from the date of issuance of the BMP Maintenance Permit in accordance with Section 4.1(d), or the completion of construction, whichever occurs first, to submit a completed application for each subsequent phase or phases, or approval of the Master Plan relative to such phases shall become null and void.

(4) Should a Development Permit for subsequent phases of Development of the project be terminated due to lack of activity provided in Section 6.1(m), or if termination occurs pursuant to 9.3, the Master Plan approval relative to that phase or phases shall become null and void.

**(h) Notice of Application after Approval of Master Plan.**

Upon approval of a Master Plan and upon application for a Development Permit for any phase or subsequent phase of a Master Plan, notice of the application shall be posted and mailed in accordance with Sections 6.1(e).

**6.3 Amendment of Permit, Certification or Master Plan.**

**(a) Amendment, General**

Modifications to an approved Master Plan, Development Permit, Quarry/Mine Permit or Certification, and/or a BMP Maintenance Permit that include any significant operational or siting modification or the BMPs approved and incorporated in the Permit or Certification shall require an amendment. Applications for amendments shall be made and processed in accordance with the Permit application requirements of this Ordinance and the LCRA Technical Manual regarding Permit applications. The application for amendment shall clearly identify the items sought to be amended and the reasons therefore.

No Permit Amendment is required for minor field adjustments of temporary Erosion and Sedimentation controls.

**(b) Modifications to Approved Master Plan**

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

**Section 7. PERMITS**

**7.1 Standard Permit Terms and Conditions.**

A Permit or Certification may contain, at a minimum, provisions requiring the Permittee to comply with one or more of the following terms and conditions, including the following:

- (1) Comply with all applicable sections of this Ordinance and conditions of the Permit or Certification.

- (2) Notify LCRA in advance of commencing any Activities authorized by a Permit or Certification.
- (3) Hold a preconstruction conference with LCRA staff and other applicable personnel for the purpose of reviewing permit conditions and verification of BMP installation, prior to commencing any Activities authorized by a Permit or Certification.
- (4) Obtain a Permit or Certification Amendment from LCRA prior to seeking a change as described in Section 6.3, including any modification to the approved BMPs approved and incorporated in the Permit. However, no Permit Amendment is required for minor field adjustments of temporary Erosion and Sediment controls.
- (5) Install, inspect, and repair all BMPs as identified in the approved Permit or Certification to ensure compliance with this Ordinance, including all applicable Performance Standards, and any other applicable regulations. Comply with the requirements of the LCRA Technical Manual and specific BMP manufacturer regarding formation of a property owners/maintenance association and any associated maintenance plans.
- (6) Repair any siltation or Erosion damage resulting from the project.
- (7) Inspect all temporary Erosion and Sedimentation controls per the LCRA Technical Manual requirements, and make needed repairs.
- (8) Allow LCRA to enter the Site for the purpose of inspecting compliance with the Permit, or for performing any work necessary to bring the Site into compliance with the Permit.
- (9) Keep a copy of the Permit and all plans at a location designated by LCRA.
- (10) Upon completion of the project, provide LCRA record drawings for any required BMPs and a written certification by the project engineer that any required BMPs have been constructed in accordance with conditions of the Permit or Certification and this Ordinance.
- (11) Promptly notify LCRA in writing of any change in the name, address, or telephone number of the Permittee.
- (12) Permittee, at own risk, may commence Development or Quarry/Mine activities prior to the expiration of the appeal period as defined in Section 11.2. If an appeal is filed, the Project must cease immediately and shall not continue until the appeal is resolved by successful mediation; has been withdrawn; or has resulted in a Board action as described in Section 11.10
- (13) If the Permit is not already in the name of the Person responsible for the permanent BMP maintenance, assign the Development Permit and all rights and obligations associated therewith to the Landowner, maintenance, or Property Owner's Association as applicable, upon completion of construction of the Development.
- (14) Perform all activities in accordance with all federal, state, or local laws or Ordinances.



- (15) Indemnify and hold LCRA harmless from any and all claims, demands, damages, actions, costs and charges to which LCRA may become subject and which LCRA may have to pay by reason of injury to any Person or property, or loss of life or property resulting from, or in any way connected with, the Permittee's acts or negligence under this Permit.
- (16) Permittee acknowledges that the elevations of the Highland Lakes and the flow in the Colorado River and its tributaries vary as a result of natural hydrologic events or LCRA's operations of its dams on the Colorado River. Permittee further understands that these conditions can change dramatically and suddenly with little notice. LCRA reserves the right to operate its dams and associated appurtenances and to use LCRA property or property on which LCRA has flowage or inundation easements for any legal purpose that it sees fit in the operation and maintenance of its dams and reservoirs and makes no guarantee that the level of any lake operated and maintained by it will be retained at any specific lake level for any particular time. LCRA further reserves the right and privilege to inundate with water at any time and as many times as LCRA may see fit all or any areas and Permittee's facilities and equipment within the Project Limits that are subject to a flowage or inundation easement, without any liability on the part of LCRA to Permittee for making such use of said property, or any part thereof.
- (17) No work is authorized that is not directly addressed in the Permit application submitted to LCRA.
- (18) Nothing in this Permit is intended to amend or alter any legal rights or benefits previously granted to or vested in LCRA.
- (19) A Permittee is required to comply with any other applicable federal, state and local laws and regulations.
- (20) Applicant shall maintain any required letter of credit or other LCRA-approved financial assurances in the amount equal to the cost of installation of any BMPs after LCRA approves the cost estimate. Failure to maintain required financial security shall be cause for termination of a Permit.

## **7.2 Additional Permit Conditions.**

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

## **Section 8. RIGHT OF ENTRY AND INSPECTION**

### **8.1 Right of Entry.**

Any Person, or his successors or assigns, who has filed a Permit application, received a Permit under this Ordinance, or is otherwise subject to the provisions of this Ordinance, shall allow entry by LCRA on the Site for the purposes of inspection and monitoring. Employees and agents of LCRA

are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions related to water quality and administration of this Ordinance. LCRA will provide 48-hour notice, not to include weekends or holidays, to the Quarry/Mine Permittee prior to entering the site to ensure the safety of the LCRA staff.

**(a) Inspection Fees.**

Inspection fees shall be as described in the fee schedule approved by the Board and posted on [www.lcra.org](http://www.lcra.org). The fee schedule may be amended from time to time by the Board in accordance with Section 13.2 of this Ordinance. LCRA may charge a reinspection fee when a project is out of compliance with any of the Performance Standards in Section 5 to recover LCRA costs for returning to the site to determine if compliance has been achieved.

**Section 9. ENFORCEMENT**

**9.1 Violations.**

It is unlawful under this Ordinance:

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

**9.2 Notice of Violation/Stop-Work Order.**

If, at any time, LCRA determines that Development or Quarry/Mine activities have occurred or are occurring without full compliance with this Ordinance, the LCRA may issue a Notice of Violation.

The Notice of Violation shall be in writing and, in the case of a permitted Site, shall be posted at the Site in the location designated for posting such notices. The Notice of Violation will specify the deficiencies that cause the Site or Activity to be out of compliance. If the Activity is occurring on an unpermitted Site, or if no location has been designated or maintained for the posting of notices, the notice shall be prominently posted at the Site, in a visible location. The notice violation may include a stop-work order. The stop-work order will direct that no further Development/Quarrying/Mining shall take place until the Landowner or Land User and/or Permittee comes into full and complete compliance with this Ordinance. Immediately upon posting a stop-work order, a Landowner or Land User without a currently valid Permit shall cease all Development or Quarry/Mine activity and take all corrective actions required by LCRA.

### **9.3 Permit Revocation.**

A Permittee that has been issued a Notice of Violation or stop-work order shall have 10 calendar days from the date that the Notice of Violation or stop-work order is posted to comply with the terms and conditions of the Development/Quarry/Mine Permit or Certification and this Ordinance. If the Permittee has appealed the Notice of Violation or stop-work order and the General Manager does not decide the appeal in the Permittee's favor, Permittee shall have 10 calendar days from the date of the General Manager's decision to comply with the terms and conditions of the Permit or Certification. If a Permittee fails to comply within this period, LCRA may revoke the Permit or Certification.

### **9.4 Appeal by Permittee.**

A Permittee may appeal the issuance of a Notice of Violation or stop-work order to the LCRA General Manager by submitting in writing a concise statement of any reason or reasons that the Notice of Violation or stop-work order should not have been issued. An appeal of the Notice of Violation or stop-work order must be received in the office of the LCRA General Manager within 10 calendar days from the date that the Notice of Violation or stop-work order is posted. The LCRA General Manager may decide the appeal based upon the reasons stated in the appeal or may request additional information from the staff or appellant.

### **9.5 Enforcement of BMPs Maintenance Permits.**

If LCRA determines that a Landowner, maintenance association, property owner association, Permittee, or Political Subdivision is not implementing the approved maintenance plan or is not in full and complete compliance with one of the other conditions contained in the BMP Maintenance Permit, the Landowner, maintenance association, property owner association, Permittee, or Political Subdivision may be notified of the deficiency. From the date that the notice is issued, a Landowner, maintenance association, property owner association, Permittee, or Political Subdivision shall have 10 calendar days to prepare a corrective action plan and 45 calendar days from the date that the notice is issued to comply with the corrective action plan, maintenance plan or BMP Maintenance Permit condition. If the Landowner, maintenance association, property owner association,

Permittee, or Political Subdivision fails to comply within this period, LCRA may perform the necessary maintenance and assess the Landowner, maintenance association, property owner association, Permittee or Political Subdivision for the costs associated with the work performed. LCRA may also seek penalties as provided in this Section.

#### **9.6 Penalty.**

Any Person violating provisions of this Ordinance shall be subject to a civil penalty of not more than \$10,000 for each violation. Each calendar day a violation exists shall constitute a separate violation.

#### **9.7 Other Remedies and Injunction.**

Compliance with the provisions of this Ordinance may also be enforced through any and all other remedies at law or in equity including enforcement by injunction.

### **Section 10. VARIANCES**

#### **10.1 Variance.**

LCRA staff shall have the discretion to grant a variance to the provisions of this Ordinance on a case-by-case basis. Granting the variance must not adversely impact stormwater quality discharging from the Development/Quarry/Mine, create a significant impact to Neighboring Property Owners, or compromise water quality or public safety. An increase in cost of the project resulting from adherence to one or more of the provisions of the Ordinance shall not be justification for a variance.

#### **10.2 Requests for Variance.**

A request for Variance shall be made prior to public notice commencing and shall be reviewed and processed in accordance with all of the procedures contained in this Ordinance, including those related to application processing, Permit issuance, and appeals. Receipt of a variance request may result in an extension of the Technical Review period.

### **Section 11. APPEALS OF PERMIT DECISIONS**

#### **11.1 Requesting an Appeal.**

An Applicant or an Affected Person may appeal a decision by LCRA staff regarding the granting, denial, or revocation of a Permit, Certification, or Master Plan under this Ordinance in accordance with the requirements of this Section.

#### **11.2 Filing of Appeal.**

An Applicant or Affected Person must file a Request for Appeal within 15 calendar days after the date of the action on the Permit, Certification or Master Plan. The request for appeal shall be filed with the LCRA General Counsel in accordance with the procedures outlined in this Section. The

request for an appeal must be in writing and contain a concise statement of the reasons for the appeal and cite the specific performance standards that the Development/Quarry/Mine Permit or Quarry/Mine Certification did or did not meet. If Development or Quarry/Mine activities have commenced and an appeal has been filed, all Development or Quarry/Mine activities must cease immediately and must not continue until the appeal is resolved pursuant to this Section.

### **11.3 Notice of Appeal.**

Notwithstanding Section 11.7, the LCRA General Counsel shall send written notice of receipt of any request(s) for Appeal to the Board, LCRA staff, the Applicant, and any Persons filing a Request for Appeal, within three business days after the expiration of the date for filing Request for Appeals. Such notice shall identify the parties, generally describe and summarize the issues raised by the appeal, and advise the prohibition against ex parte contacts.

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

### **11.4 Form of Appeal.**

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

- (1) Name and address of the Person(s) filing the Request for Appeal;
- (2) Name of the Applicant, if different than in Section 11.4(1);
- (3) A concise statement of how the Person filing the appeal is affected by the issuance, denial or revocation of the Permit or by one or more of the terms or conditions of the Permit;
- (4) If appealing a recommendation for Permit approval, which specific performance standards in Section 5 are not being met; and
- (5) Information required by Section 11.5.

### **11.5 Validity of Appeal.**

For an appeal to be valid, the Request for Appeal must meet all of the following criteria:

- (1) Be filed in accordance with this Section and the LCRA Technical Manual, as amended;
- (2) Demonstrate that the Applicant or Affected Person requesting the appeal provided written comments to staff in accordance with Section 6.1(f) or provided comments during a public

meeting held pursuant to Section 6.1(g). If the Applicant or Affected Person did not provide written comments in accordance with Section 6.1(f), the Applicant or Affected Person must provide a compelling reason why their request for appeal should be considered, nevertheless;

- (3) If appealing a recommendation for Permit approval, only raise matters or issues that were presented in writing pursuant to Section 6 or as part of the Permit application;
- (4) For appeals filed by Affected Persons, allege the failure of specific performance standards in Section 5 or as further required by the Development Permit, Quarry/Mine Permit, or Quarry/Mine Certification;
- (5) Provide credible evidence in support of the allegations raised by the Request for Appeal;
- (6) Demonstrate how such allegations, if taken as true, would change the terms and conditions of the Permit or would affect the issuance of the Permit; and
- (7) Demonstrate that such allegations are related to a matter that LCRA has jurisdiction to consider. For example: LCRA may not consider increase in vehicle traffic, noise, incompatibility of land uses, or questions of property rights, property ownership or easement rights (if LCRA is in possession of a title opinion from the applicant).

## **11.6 Determination of Validity of Appeal.**

### **(a) Commencement of Permit Activities and Construction.**

Once an appeal has been filed, all Development or Quarry/Mine activity must cease until the appeal is resolved.

### **(b) Staff Review.**

- (i) Within 15 calendar days after the expiration date for filing Requests for Appeal, LCRA staff shall evaluate the Request for Appeal to determine if such request meets the requirements of Sections 11.1, 11.2 and 11.4.
- (ii) If the appeal does not meet the requirements of Sections 11.1, 11.2 and 11.4, staff shall return the Request for Appeal and the staff's Permit decision will become final.
- (iii) If the Request for Appeal meets the requirements of Sections 11.1, 11.2 and 11.4, staff shall forward the Development, Quarry/Mine Permit, or Quarry/Mine Certification and the application, together with such Requests for Appeal and the staff's statement as to the elements of such Request for Appeal to the LCRA General Manager for consideration of the validity of the Request for Appeal.

**(c) General Manager Review.**

The General Manager shall determine the validity or invalidity of the Request for Appeal within 15 calendar days from receipt of the information provided pursuant to Section 11.6(b).

**(d) General Manager's Decision Final.**

The General Manager's determination of the validity or invalidity shall be final. Upon a determination that a Request for Appeal is invalid, the staff's Permit decision shall become final.

**(e) Effect of Pending Appeal on Permit Expiration.**

The expiration date stated in the Permit issued after an appeal shall be based on the date the appeal is resolved.

**(f) Valid Appeal and Notification.**

If the General Manager determines that the appeal is valid, the LCRA General Counsel shall immediately provide written notice of the General Manager's decision to staff and send such notice by first class mail to all Persons filing a Request for Appeal and the Applicant. Any notice regarding valid appeals shall include information regarding the mediation requirements in Section 11.7.

**11.7 Mediation Required Prior to Hearing of Valid Appeal.**

- (i) Within 30 calendar days of a decision by the General Manager that a valid appeal has been filed, the Person(s) with valid Request for Appeal ("Appellant(s)"), Applicant, and LCRA staff shall complete mediation of the disputed issues.
- (ii) Mediation shall be conducted by a mediator selected by agreement of the parties, or if the parties fail to agree, by a mediator selected by the LCRA General Counsel.
- (iii) Costs of mediation shall be shared equally among all the parties to the mediation, including LCRA.
- (iv) The mediator shall submit a written report, including a recommendation on the alignment of parties, informing the LCRA General Counsel of the result of the mediation within five calendar days after completion of the mediation.
- (v) If the mediation does not result in the withdrawal of an appeal, further consideration of any unresolved appeal shall proceed under Section 11.8. Any party that fails to participate in the required mediation or fails to pay its share of required costs of mediation is precluded from further participation as a party in any appeal of the staff's Permit decision.

## **11.8 Responses to Valid Appeals.**

### **(a) Staff Response to Valid Appeal.**

Staff shall prepare a written response to the appeal within 10 calendar days after the receipt of the mediator's report required under Section 11.7. Any response shall not exceed 20 pages in length including exhibits and attachments, and shall be submitted to the LCRA General Counsel and mailed by certified mail, return-receipt requested, to the Applicant and all Appellants.

### **(b) Applicant Response to Valid Appeal.**

The Applicant, if not the Appellant, may submit a written response to the appeal to the LCRA General Counsel within 10 calendar days after the receipt of the mediator's report required under Section 11.7. Any response shall not exceed 20 pages including exhibits and attachments, and shall be mailed by certified mail, return-receipt requested, to all Appellants.

### **(c) Appellant Response to Valid Appeal.**

The Appellant(s) may submit a written response to the appeal, including any proposed alignment of the parties, to the LCRA General Counsel within 20 calendar days after the receipt of the written report required under Section 11.7. Any response to the Applicant and to LCRA staff shall not exceed 20 pages including exhibits and attachments and shall be mailed by certified mail, return-receipt requested.

### **(d) Valid Appeal Forwarded to Water Operations Committee Chair.**

Upon expiration of the deadline for the Applicant to submit a response pursuant to Section 11.8(b), the LCRA General Counsel shall forward to the Chair of the Water Operations Committee a copy of the Permit, all valid appeals, the staff response and Applicant's response, if any.

## **11.9 Water Operations Committee Consideration of Valid Appeal.**

### **(a) Forum.**

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

The Chair of the Water Operations Committee may:

- (i) consider all of the written information forwarded by the LCRA General Counsel and direct staff to issue the Permit;



- (ii) forward the appeal to the Water Operations Committee with a recommendation that the Committee consider all of the written information submitted and allow each party to the proceeding an allotment of time to present oral arguments; or
- (iii) forward the appeal to the Water Operations Committee with a recommendation that they consider the appeal using another method agreed to by all of the parties.

**(b) Scheduling of Hearing.**

Upon the direction of the Water Operations Committee Chair, as specified in Section 11.9(a)(i), a hearing before the Water Operations Committee may be held to consider a valid appeal. Such hearing should be scheduled no later than 45 calendar days after receipt of the required mediation report or the next meeting of the Water Operations Committee, whichever occurs later.

**(c) Written Information Provided.**

No later than 15 calendar days prior to the date scheduled for the hearing, the LCRA General Counsel shall forward to the members of the Committee the following materials:

- (i) All written information received from Appellants relative to a valid appeal and in accordance with this entire Section 11;
- (ii) The staff's response prepared in accordance with Section 11.8(a);
- (iii) The Applicant's response submitted pursuant to Section 11.8(b), if any; and
- (iv) The Appellants response to the staff's and Applicant's responses.

**(d) Open Hearing.**

The hearing shall be open to the public.

**(e) Participants.**

Only the Applicant/Permittee, LCRA staff, the Appellant(s), or any of their designated representatives, shall be entitled to participate in the hearing.

**(f) Alignment of Parties.**

Subject to the approval of the LCRA General Counsel, the parties shall establish their own alignments. In cases where parties fail to establish alignments, the LCRA General Counsel shall align parties (other than staff) according to their positions in support of, or opposed to, staff's Permit

decision. Except for an Applicant appealing a condition in a Permit, those Appellants opposed only to specific parts of the staff's Permit decision shall be aligned with those Appellants generally opposed to the staff's Permit decision. An Applicant appealing a condition in a Permit shall be separately aligned from other Appellants, if any, opposed to the staff's Permit decision. Each of the aligned parties shall designate a spokesperson to speak on their behalf. If any of the aligned parties cannot agree to a spokesperson, the LCRA General Counsel shall designate a Person.

**(g) Procedure.**

The hearing process is as follows:

**(i) Staff Summary.**

The Water Operations Committee shall convene in open session and shall receive a presentation by staff not to exceed 15 minutes which summarizes the position of each party to the appeal, including the staff's position. The staff summary shall be based upon all written information validly received from Appellants, in accordance with Section 11, the Application and the information contained in the Applicant's or Permittee's file.

**(ii) Oral Argument.**

If oral arguments are requested by the Water Operations Committee Chair pursuant to Section 11.9(a)(ii):

- (1) The parties in opposition to the staff's Permit decision, as aligned by the LCRA General Counsel, will follow and will be collectively allowed a total of 20 minutes to make their argument(s).
- (2) The parties in support of the staff's Permit decision, as aligned by LCRA General Counsel, will follow and will collectively have a total of 20 minutes to make their argument(s).
- (3) Staff shall be given 15 minutes to rebut the presentation of the parties aligned in opposition to the staff's Permit decision.
- (4) Each group of aligned parties shall have five minutes to summarize their respective positions.

**(iii) Presentation of Additional Evidence.**

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

**(iv) Questions by the Committee.**

The Committee may ask questions of any party or Person that has registered with the LCRA General Counsel and is a member or representative of a valid party to the appeal at any time during the proceeding

**(h) Water Operations Committee Deliberation.**

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

**(i) Water Operations Committee Recommendation.**

The Water Operations Committee shall make a recommendation based on written information provided to the Water Operations Committee prior to the hearing, documents contained in the Application file, and any other evidence or information submitted at the hearing, if recommended by the Chair to be considered by the Water Operations Committee.

The Water Operations Committee may recommend:

- (1) Issuance of the Permit;
- (2) Denial of the Permit; or
- (3) Modification of the Permit.

**(j) Procedures May Be Altered as Justice Requires.**

The Water Operations Committee may alter the procedures, including the hearing process, set forth in this Section 11.9, if necessary, to develop an adequate record, to afford full opportunity for the public participation or comment by the Applicant or staff, or if in the public interest.

**11.10 Board Consideration of Water Operations Committee Recommendation.**

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

- (1) Affirm the Water Operations Committee's recommendation;
- (2) Reject the Water Operations Committee's recommendation; or
- (3) Modify the Water Operations Committee's decision.

### **11.11 Ex Parte Communications.**

#### **(a) Prohibition.**

Any communication by an Applicant/Permittee, party requesting an appeal or their representatives, or LCRA staff member with Committee or other member(s) of the LCRA Board on the merits of any pending appeal or decision affecting a Permit or Permit Amendment from the date of the Permit or Permit Amendment is issued by staff until the date the appeal is decided in accordance with Section 11, other than at a hearing or in a public meeting of the Committee or the Board is strictly prohibited. Notwithstanding the foregoing, the LCRA General Counsel may consult with the Board or any of its Directors regarding the appeal.

#### **(b) Effect of Violation.**

Any Person who violates this provision may be subject to sanctions, which may include:

- (1) Return of the application if the violation is from the Applicant or his/her representative;
- (2) Return all or a portion of the application fee if the violation is from LCRA staff; or
- (3) Automatic rejection of the appeal if the violation is from a Person requesting an appeal or a Person otherwise opposed to the application.

## **Section 12. COORDINATION WITH OTHER GOVERNMENTAL ENTITIES AND AGENCIES AND LCRA ORDINANCES**

### **12.1 Municipalities without a Water Quality Protection Ordinance.**

Those municipalities within the jurisdiction and scope of this Ordinance that do not have a water quality protection Ordinance that is at least as stringent as this Ordinance are encouraged to enter into an Interlocal Agreement or Memorandum of Understanding with LCRA stating that they will adopt and administer a water quality protection Ordinance for new Development within their jurisdiction consistent with this Ordinance.

### **12.2 Agreements.**

LCRA may pursue Memoranda of Understanding or Interlocal Agreements with municipalities and other Political Subdivisions or governmental entities within the jurisdiction of this Ordinance to develop and implement stormwater controls for activities within their jurisdiction that may cause Pollution from stormwater.

### **12.3 Highland Lakes Dredge and Fill Ordinance.**

Any owner or operator of a facility that is used to conduct Dredge or Fill activities after the effective date of this Ordinance and which is subject to the requirements of LCRA's Highland Lakes Dredge and Fill Ordinance, must also comply with applicable provisions of this Ordinance.

#### **12.4 Highland Lakes Marina Ordinance.**

Any owner or operator of a marina, or support facility, that is constructed or modified after the effective date of this Ordinance and which is subject to the requirements of LCRA's Highland Lakes Marina Ordinance, must also comply with applicable provisions of this Ordinance.

#### **12.5 On-Site Sewage Facilities.**

Any owner or operator of private septic system generating 5,000 gallons of wastewater or less per day that is installed or modified after the effective date of this Ordinance, and which requires a private sewage facility license from LCRA must also comply, provide, and maintain temporary Erosion controls during construction until the Site has been permanently stabilized.

### **Section 13. SAVINGS CLAUSE; AMENDMENT; EFFECTIVE DATE; REVIEW**

#### **13.1 Savings Clause.**

If any word, clause, sentence, process or provision of this Ordinance or the application thereof to any Person or circumstance shall be held to be invalid, the remainder of the Ordinance to that Person or circumstance and the application of such provision to other Persons or circumstances, shall not be affected thereby.

#### **13.2 Amendment of the Ordinance, LCRA Technical Manual, or Fee Schedule.**

This Ordinance may be amended by the Board from time to time after notice and reasonable opportunity for public review. The LCRA Technical Manual may be amended by LCRA's General Manager from time to time after notice and reasonable opportunity for public review. The General Manager will notify the LCRA Board of Directors of any amendments to the LCRA Technical Manual. The fee schedule may be amended from time to time by the Board after notice and reasonable opportunity for public review.

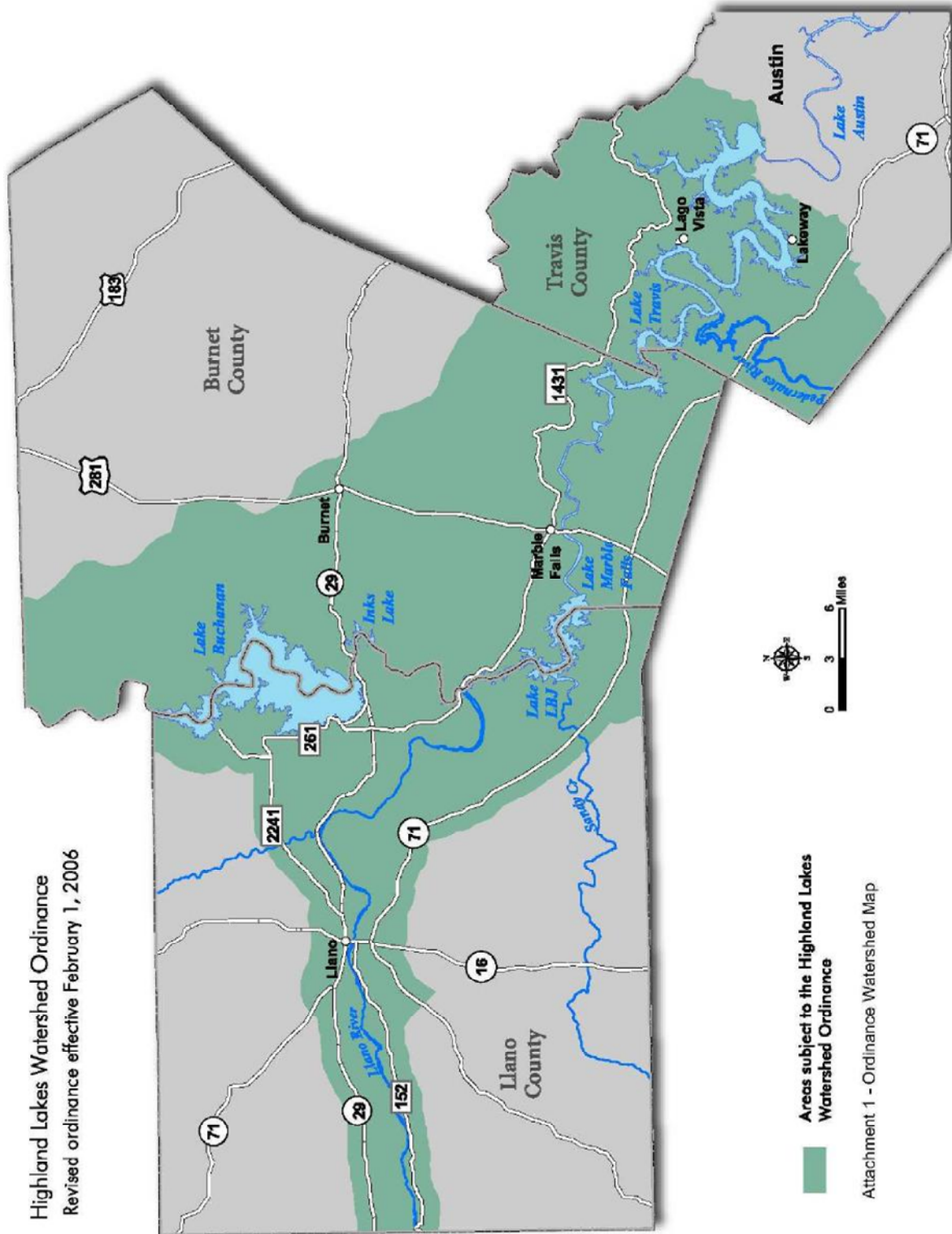
#### **13.3 Effective Date.**

This Ordinance is a merger and combination of amendments to the Lake Travis NPS Ordinance (adopted Dec. 14, 1989, amended Aug. 19, 1992, and April 21, 2004) and the Upper Highland Lakes NPS Ordinance (adopted March 19, 1992, amended April 21, 2004) (the Ordinances). The Ordinances were combined and renamed the Highland Lakes Watershed Ordinance (adopted Nov. 16, 2005). The Highland Lakes Watershed Ordinance became effective on Feb. 1, 2006, with Amendments effective March 1, 2007, Feb. 19, 2014, and Jan. 1, 2022.

#### **13.4 Review.**

This Ordinance shall be reviewed for its effectiveness for protecting the quality of water in the Highland Lakes and its tributaries in accordance with Board Policies in effect at the time.

**ATTACHMENT 1 – HIGHLAND LAKES WATERSHED ORDINANCE MAP**



Highland Lakes Watershed Ordinance  
 Revised ordinance effective February 1, 2006

Attachment 1 - Ordinance Watershed Map