

Article 8 Enforcement

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# Article 8 Enforcement

## Division 1 General Enforcement Procedures

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### 24.8.1 Generally

- (a) This Article establishes procedures the City uses to ensure compliance with the provisions of this Code and obtain corrections for violations. It also institutes the remedies and penalties that apply to Code violations.
- (b) Within the terms of the Municipal Annexation Act, the City of Laredo shall enjoin in the District Court any violation of a subdivision and platting provision of this Chapter in the area outside the corporate limits of the City, but within its extraterritorial jurisdiction. (As amended 8/21/89, Ordinance # 89-0-154)

### 24.8.2 Violations

- (a) **Generally.** Any of the following violate this Code and are subject to the remedies and penalties provided for in this Article.
  - (1) *Buildings or Structures.* To erect, construct, reconstruct, alter, repair, convert, or maintain a building or structure in a manner inconsistent with the requirements of this Chapter or a condition of approval.
  - (2) *Use of Land.* To use any land or premises in a manner inconsistent with the requirements of this Chapter or a condition of approval.
  - (3) *Establish Use, Structure, or Sign Without Permit or Approval.* To establish or place any use, structure, or sign upon land that is subject to this Code without all of the approvals required by this Code.
  - (4) *Development or Subdivision Without Permit or Approval.* To engage in any subdividing, development, construction, remodeling, or other activity of any nature upon land that is subject to this Code without all of the approvals required by this Code.
  - (5) *Development, Subdivision, Use, or Sign Inconsistent with Permit.* To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate, or other form of authorization required to engage in those activities.
  - (6) *Development, Subdivision, Use, or Sign Inconsistent with Conditions of Approval.* To violate, by act or omission, any term, condition, or qualification placed by a decision-making body upon any permit or other form of authorization.
  - (7) *Development, Subdivision, Or Sign Inconsistent with this Code.* To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, structure, or sign, or to engage in development or subdivision of any land in violation of any zoning, subdivision, sign, or other regulation of this Code.
  - (8) *Making Lots or Setbacks Nonconforming.* To reduce or diminish any lot area so that the lot size, setbacks, or open spaces are smaller than prescribed by this Code.



- (9) *Increasing Intensity or Density of Use.* To increase the intensity or density of use of any land or structure, except in accordance with the procedural requirements and substantive standards of this Code.
- (10) *Removing or Defacing Required Notice.* To remove, deface, obscure, or otherwise interfere with any notice required by this Code.
- (11) *Failure to Remove Signs.* To fail to remove any sign installed, created, erected, or maintained in violation of this Code or for which the sign permit expired.

### **24.8.3 Responsible Persons**

Any person who violates this Code is subject to the remedies and penalties expressed in this Article.

### **24.8.4 Enforcement Responsibility**

The Zoning Enforcement Officer holds primary responsibility for enforcing all provisions of this Code. Other officers of the City, designated by the Planning Director, share responsibility for enforcing provisions of this Code.

### **24.8.5 Enforcement Procedures**

- (a) **Remedies and Enforcement Powers.** The City has the following remedies and enforcement powers.
- (b) **Generally.** If Section 24.8.2 applies, the City may institute any appropriate action or proceedings:
  - (1) to prevent any unlawful erection, maintenance, or use,
  - (2) to restrain, correct, or abate the violation,
  - (3) to prevent the occupancy of a building, structure or land, or
  - (4) to prevent any illegal act, conduct, business or use in or about the premises.
- (c) **Withhold Permit.**
  - (1) The City may deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements after determining there is an uncorrected violation of a Code provision or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the City. This enforcement provision applies regardless of whether the current owner or applicant is responsible for the violation in question.
  - (2) The City may deny or withhold all permits, certificates, or other forms of authorization on any land, structure, or improvements owned or being developed by a person who owns, developed, or otherwise caused an uncorrected violation of a Code provision or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the City. This provision applies regardless of whether the property for which the permit or other approval is sought is the property in violation.
  - (3) If a subdivision plat is approved, the Building Official shall not issue a certificate of occupancy until all improvements are accepted by the City in writing and the approved plat is recorded.



- (d) **Permits Approved with Conditions.** Instead of withholding or denying a permit or other authorization, the City may grant authorization subject to a corrected violation condition.
- (e) **Revoke Permits.** Any development permit or other form of authorization required in this Code may be revoked by 24.8.5(b).
- (f) **Stop Work.** With or without revoking permits, the City may stop work on any building or structure on any land on which there is an uncorrected violation of Code provision or of a permit or other form of authorization issued, in accordance with its power to stop work under its building codes.
- (g) **Injunctive Relief.** The City may seek an injunction or other equitable relief in court to stop any violation of this Code or of a permit, certificate, or other form of authorization granted.
- (h) **Abatement.** The City may seek a court order in the nature of mandamus, abatement, injunction, or other action or proceeding to abate or remove a violation or otherwise to restore the premises in question to the condition in which they existed prior to the violation.
- (i) **Civil Action and Administrative Adjudication.** The City may enforce the provisions of this Code through civil action.
  - (1) Civil action, as per state law; and
  - (2) Administrative adjudication under Municipal Court Chapter, Article IX, as amended, and Texas Local Government Code Chapter 54, Subchapter C, as amended.
- (j) **Withhold Public Services**
  - (1) The City may withhold any public services until all rules, regulations, and requirements of the subdivision regulations have been met.
  - (2) Unless a plan, plat or replat is approved in the manner and by the authorities provided for in this Chapter, it is unlawful within the area covered by the plan, plat, or replat for any officials representing the City to serve or connect that land to any public utility owned, controlled or distributed by the City for the use of the owners or purchasers of the plat or plan.
- (k) **Other Remedies.** The City may have other remedies provided by law for zoning, subdivision, sign, or related Code provision violations.
- (l) **Other Powers.** In addition to the enforcement powers specified in this Article, the City may exercise any and all enforcement powers granted by law.
- (m) **Continuation.** Nothing in this Code prohibits the continuation of previous enforcement actions undertaken by the City by previous and valid ordinances and laws.

## 24.8.6 Cumulative Remedies

The remedies and enforcement powers established in this Article are cumulative and the City may exercise them in any order or combination at any time.

## 24.8.7 Penalties

Any person or corporation who violates any of the Code provisions or fails to comply with any of the requirements, or who builds or alters any building or use in violation of any detailed



statement or plan submitted and approved are guilty of a misdemeanor punishable under this section.

- (a) The owner or owners or tenant of any building or premises or part, where anything in violation of this Code exists, and any architect, builder, contractor, agent, person, or corporation employed in connection and who may have assisted in the commission of any Code violation are guilty of a separate offense punishable under this section.
- (b) A person who violates any provision of this Article by performing a prohibited act or by failing to perform an act required is guilty of a misdemeanor. Each day on which a violation exists or continues to exist is a separate offense.
- (c) If the definition of an offense under this Article does not prescribe a culpable mental state, then a culpable mental state is not required. This offense is punishable by a fine no more than \$500. Although not required, if a culpable mental state is alleged in the charge of the offense and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, this offense is punishable by a fine no more than \$2,000.
- (d) If the definition of an offense under this Article prescribes a culpable mental state and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, then a culpable mental state is required and the offense is punishable by a fine no more than \$2,000.
- (e) Any person who violates any of the subdivision and platting regulations of this Chapter is guilty of a misdemeanor and, upon conviction by the corporation Court of the City of Laredo, shall be fined up to \$500. Each day the violation continues is a separate offense. Prosecution or conviction under this provision does not bar to any other remedy or relief for violations of this Chapter. (Amended 4-7-98, Ordinance # 98-0-091)

## **Division 2 Stormwater Management Enforcement**

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### **24.8.8 Applicability**

- (a) This Division applies to the enforcement of the stormwater management standards (section 24.4.5).
- (b) Actions taken under this Division (including any warning notice, notice of violation, emergency cease and desist order, show cause hearing, compliance order, remediation, abatement, and/or restoration order, or stop work order) do not preclude, and are not a prerequisite for, taking any other action against a violator.

### **24.8.9 Administrative Enforcement Remedies**

#### **(a) Warning Notice**

- (1) City Engineer may serve a written Warning Notice upon any person found to have violated, or continues to violate, any provision of the stormwater management standards or any order issued pursuant to this Division.
- (2) The Warning shall specify the particular violation believed to have occurred and request the discharger to immediately investigate the matter and to seek a resolution where any offending discharge will cease.



- (3) Investigation and/or resolution of the matter in response to the Warning Notice does not relieve the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice.

**(b) Notification of Violation**

- (1) If the City Engineer finds that any person has violated, or continues to violate, any provision of the stormwater management standards, or any order issued under this Division, the City Engineer may serve upon that person a written Notice of Violation.
- (2) Within 10 calendar days of the receipt of this notice, the alleged violator shall submit an explanation of the violation and a plan for the satisfactory correction and prevention of recurrence (to include specific required actions) to the City Engineer.
- (3) If the alleged violator denies that any violation occurred and/or contends that no corrective action is necessary, an explanation of the basis of any that denial or contention shall be submitted to the City Engineer within 10 calendar days of receipt of the notice.
- (4) Submission of an explanation and/or plan does not relieve the alleged violator of liability for any violations occurring before or after receipt of the Notice of Violation (NOV).

**(c) Consent Orders.** The City Engineer may enter into Consent Orders, assurances of voluntary compliance, or similar documents establishing an agreement with any person responsible for noncompliance with any provision in the stormwater management standards or any order issued under this Division. Those documents:

- (1) may include specific actions to be taken by the person to correct the noncompliance within a time period specified by the document, and
- (2) have the same force and effect as the administrative orders issued pursuant to subsections (e), (f), and (g) of this section and are judicially enforceable.

**(d) Show Cause Hearing**

- (1) The City Engineer may order any person who has violated, or continues to violate, any provision of the stormwater management standards, or any order issued under this Division, to appear before the City Engineer and show cause why a proposed enforcement action should not be taken.
- (2) Notice shall be served on the alleged violator as follows:
  - a. The notice shall specify the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the alleged violator show cause why the proposed enforcement action should not be taken.
  - b. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least 10 calendar days prior to the hearing.
  - c. The notice may be served on any authorized representative of the alleged violator.
- (3) The hearing shall be conducted pursuant to the rights and procedures specified in section 24.8.10(a).



**(e) Compliance Orders**

- (1) If the City Engineer finds that any person has violated, continues to violate, or threatens to violate, any provision of the stormwater management standards, or any order issued under this Division, the City Engineer may issue an order to the violator directing compliance within a specified time limit, prior to commencement or continuance of operation, or immediately.
- (2) Compliance orders may also contain other requirements to address the noncompliance, including additional self- monitoring, and management practices designed to minimize the amount of pollutants discharged to the MS4 and waters of the United States.
- (3) A compliance order may not extend the deadline for compliance established by a state or federal standard or requirement, nor does a compliance order relieve the person of liability for any violation, including any continuing violation.

**(f) Remediation, Abatement, and Restoration Orders**

- (1) If the City Engineer finds that a person has violated, or continues to violate, any provision of the stormwater management standards, or any order issued under this Division, and that the violation adversely affects MS4, or the waters of the United States, the City Engineer may issue an order to the violator directing them to undertake and implement any appropriate action to remediate and/or abate any adverse effects of the violation upon the MS4, or the waters of the United States, and/or to restore any part of the MS4, or the waters of the United States.
- (2) The remedial, abatement, and restoration actions may include, but are not limited to:
  - a. monitoring, assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement, and/or restoration action;
  - b. confinement, removal, cleanup, treatment, and disposal of any discharged or released pollution or contamination;
  - c. prevention, minimization, and/or mitigation of any damage to the public health, welfare, or the environment that may result from the violation;
  - d. and restoration or replacement of City property or natural resources damaged by the violation.
- (3) The order may direct that the remediation, abatement, and/or restoration be accomplished on a specified compliance schedule and/or completed within a specified period of time.

**(g) Emergency Cease and Desist Orders**

- (1) If the City Engineer finds that any person has violated, continues to violate, or threatens to violate, any provision of the stormwater management standards, or any order issued under this Division, or that the person's past violations are likely to recur, and that the person's violation(s), or threatened violation(s), have caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the City



Engineer may issue an order to the violator directing it to immediately cease and desist all of those violations.

- (2) The cease and desist order may direct the violator to:
  - a. Immediately comply with all requirements of the stormwater management standards; and
  - b. Take any appropriate preventive action needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.
- (3) Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. If a discharger's fails to immediately comply voluntarily with the emergency order, the City Engineer may take any steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services.
- (4) The City Engineer may allow the person to commence or recommence its discharge when it has demonstrated to the satisfaction of the City Engineer that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under the stormwater management standards.
- (5) A person responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the City Engineer within 10 calendar days of receipt of the emergency order.

#### **(h) Stop Work Orders**

- (1) If the City Engineer finds that any operator of a construction site has violated, threatens to violate, or continues to violate, any provision of the stormwater management standards, or any order issued under this Division, the City Engineer may issue a Stop Work Order to the operator.
- (2) A copy of the Stop Work Order shall be posted at the construction site and distributed to all City departments and divisions whose decisions affect any activity at the site.
- (3) Unless express written exception is made by the City Engineer, the Stop Work order prohibits any further construction activity, or any commencement of construction activity, at the site and bars any further inspection or approval by the City associated with a building permit, grading permit, or any other City approval necessary to commence or continue construction or to assume occupancy at the site.

### **24.8.10 Right to Reconsideration Hearing and Appeal**

#### **(a) Reconsideration and Hearing**

- (1) Any person subject to a Compliance Order under 24.8.9(e), a Remediation, Abatement, or Restoration Order under 24.8.9(e), an Emergency Cease and Desist Order under 24.8.9(g), or a Stop Work Order under 24.8.9(h), may petition the City





- Engineer to reconsider the basis for their order within 15 calendar days of the affected person's notice of issuance of the order.
- (2) Failure to submit a timely written petition for reconsideration waives any further right to administrative reconsideration or review of the order.
  - (3) In its petition, the petitioning party must indicate the provisions of the order objected to, the reasons for the objection(s), any facts that are contested, the evidence that supports the petitioner's view of the facts, any alternative terms of an order that the petitioner would accept, and whether the petitioning party requests a hearing on its petition.
  - (4) The effect of any Compliance Order under 24.8.9(e), a Remediation, Abatement, or Restoration Order under 24.8.9(e), and any Stop Work Order under 24.8.9(h) is stayed pending the City Engineer's reconsideration of the petition, and any hearing on the petition, unless the City Engineer expressly makes a written determination to the contrary. The effectiveness of any Emergency Cease and Desist Order under 24.59.8.7 is not stayed pending the City Engineer's reconsideration, or any hearing on the petition, unless the City Engineer expressly and in writing stays the emergency order.
  - (5) Within 30 calendar days of the submittal of a petition for reconsideration, the City Engineer shall either:
    - a. grant the petition and withdraw or modify the order accordingly;
    - b. deny the petition, without hearing if no material issue of fact is raised; or
    - c. if a hearing is requested and a material issue of fact is raised, set a hearing on the petition.
  - (6) Written notice of any hearing set by the City Engineer pursuant to 24.8.10(a)(5)c shall be served on the petitioning party personally or by registered or certified mail (return receipt requested) at least 10 calendar days prior to the hearing. The notice may be served on any authorized representative of the petitioning party.
  - (7) The City Engineer may conduct the hearing and take evidence, or may designate any employee of the City or any specially designated attorney or engineer to:
    - a. issue in the name of the City notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing;
    - b. take evidence; and
    - c. transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Engineer for action.
  - (8) At any hearing held pursuant to this subsection, testimony is taken under oath and recorded. Any party is entitled to present their case or defense by oral or documentary evidence and to conduct any cross-examination required for a full and true disclosure of the facts. A transcript will be made available to any party to the hearing upon payment of the usual charges for public records.
  - (9) After the City Engineer reviews the evidence, they shall either:



- a. grant the petition;
  - b. deny the petition; or
  - c. grant the petition in part and deny it in part.
- (10) The City Engineer may modify its order as appropriate based upon the evidence and arguments presented at the hearing and its action on the petition, and issue further orders and directives as are necessary and appropriate.
- (b) Appeal.** Any person whose petition for reconsideration by the City Engineer is not granted in its entirety and who remains adversely affected by the City Engineer's order, or who is subject to an order of the City Engineer issued following a Show Cause Hearing under 24.8.9(d), may challenge the final action of the City Engineer in an appropriate court of competent jurisdiction.

## **24.8.11 Judicial Enforcement Remedies**

### **(a) Civil Remedies**

- (1) If it appears that a person has violated, or continues to violate, any provision of the stormwater management standards that relates to the following, the City may obtain the remedies provided in subsection 24.8.11(a)(3) through 24.8.11(a)(4) below:
- a. the preservation of public safety, relating to the materials or methods used in construction of any structure or improvement of real property;
  - b. the preservation of public health or to the fire safety of a building or other structure or improvement;
  - c. the establishment of criteria for land subdivision or construction of buildings, including street design;
  - d. dangerously damaged or deteriorated structures or improvements;
  - e. conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; or
  - f. point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into the MS4.
- (2) The City may invoke Sections 54.011 - 54.017 of the Texas Local Government Code and petition the State district court or the county court-at-law of Webb County, through the City Attorney, for either the injunctive relief specified 24.8.11(a)(3) or the civil penalties specified in subsection 24.8.11(a)(4) below, or both the specified injunctive relief and civil penalties.
- (3) Pursuant to Section 54.016 of the Texas Local Government Code, the City may obtain against the owner or the operator of a facility a temporary or permanent injunction, as appropriate, that:
- a. prohibits any conduct that violates any provision of the stormwater management standards that relates to any matter specified in subsection 24.8.11(a)(1) above; or
  - b. compels the specific performance of any action that is necessary to comply with any provision of the stormwater management standards that relates to any matter specified in subsection 24.8.11(a)(1) above.



- (4) Pursuant to Section 54.017 of the Texas Local Government Code, the City may recover a civil penalty of not more than \$1,000 per day for each violation of any provision of the stormwater management standards that relates to any matter specified in subsection 24.8.11(a)(1) above, and a civil penalty of not more than \$5,000 per day for each violation of any provision of the stormwater management standards that relates to any matter specified in subsection 24.8.11(a)(1) above, if the City proves that:
  - a. the defendant was actually notified of the provisions of the stormwater management standards; and
  - b. after the defendant received notice of the stormwater management standards, the defendant committed acts in violation of the stormwater management standards or failed to take action necessary for compliance with the stormwater management standards.

**(b) Criminal Penalties**

- (1) Any person who violates any provision of the stormwater management standards, or any order issued under this Division, is strictly liable for that violation, regardless of the presence or absence of a culpable mental state. That person is subject, upon conviction, to a fine of up to \$2,000 per violation, per day.
- (2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to the stormwater management standards, or any order issued under this Division, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under the stormwater management standards is subject to, upon conviction, a fine of up to \$2,000 per violation, per day.
- (3) In determining the amount of any fine imposed under this subsection, the court shall take into account all relevant circumstances, including, but not limited to:
  - a. the extent of harm caused by the violation,
  - b. the magnitude and duration of the violation,
  - c. any economic benefit gained through the violation,
  - d. corrective actions by the violator,
  - e. the compliance history of the violator,
  - f. the knowledge, intent, negligence, or other state of mind of the violator, and
  - g. any other factor as justice requires.

**(c) Civil Suit Under Texas Water Code**

- (1) If it appears that a violation or threat of violation of any provision of Section 26.121 of the Texas Water Code, or any rule, permit, or order of the Texas Natural Resource Conservation Commission, has occurred or is occurring within the jurisdiction of the City of Laredo or its extraterritorial jurisdiction, the City may institute a suit in a state district court through its City Attorney for the injunctive relief or civil penalties



or authorized in Subsection (a) of Section 26.123 of the Texas Water Code, against the person who committed or is committing or threatening to commit the violation.

- (2) This power is exercised pursuant to Section 26.124 of the Texas Water Code.
- (3) In any suit brought by the City under this section, the Texas Natural Resource Conservation Commission is a necessary and indispensable party.

**(d) Remedies Nonexclusive**

- (1) The remedies provided for in this Division are not exclusive of any other remedies that the City may have under state or federal law or other City ordinances. The City may take any, all, or any combination of these actions against a violator. The City is empowered to take more than one enforcement action against any violator.
- (2) These actions may be taken concurrently.

## **24.8.12 Supplemental Enforcement Action**

**(a) Performance and Maintenance Bonds**

- (1) The City Engineer may, by written notice, order any owner or operator of a source of storm water discharge associated with construction or industrial activity to file a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the City Engineer to be necessary to achieve consistent compliance with the stormwater management standards, any order issued under this Division, any required best management practice (BMP), and/or any SWPPP provision, and/or to achieve final stabilization of the site.
- (2) The City may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other City permit or approval necessary to commence or continue construction or any industrial activity at the site, or to assume occupancy, until the performance or maintenance bond is filed.

**(b) Liability Insurance.** The City Engineer may, by written notice, order any owner or operator of a source of storm water discharge associated with construction or industrial activity to submit proof that it has obtained liability insurance, or other financial assurance, in an amount not to exceed a value determined by the City Engineer, that is sufficient to remediate, restore, and abate any damage to the MS4, the waters of the United States, or any other aspect of the environment that is caused by the discharge.

**(c) Public Nuisances**

- (1) A violation of any provision of the stormwater management standards, or any order issued under this Division, is declared a public nuisance and shall be corrected or abated as directed by the City Engineer.
- (2) Any person(s) creating a public nuisance is subject to the provisions of the Nuisance Ordinance of the Code of the City of Laredo, including requirements to reimburse the City for any costs incurred in removing, abating, or remedying the nuisance.

