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District 4

## **ORDINANCE 466**

# **Municipal Separate Storm Sewer System Ordinance City of Socorro, Texas**

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## **Section I. Intent and Purpose**

This Ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) of the City of Socorro, Texas in order to comply with requirements of the Texas Pollutant Discharge Elimination System (TPDES) permit process. The objectives of this ordinance are:

- To regulate pollutants from stormwater discharges into and from the MS4;
- To prohibit illicit connections and discharges to the MS4;
- To control the discharge of spills and prohibit dumping or disposal of materials other than stormwater into the small MS4;
- To enforce compliance with the permittee's ordinances, permits, contracts, or orders;
- To require installation, implementation, and maintenance of control measures;
- To receive and collect information, such as stormwater plans, inspection reports, and other information deemed necessary to assess compliance with this permit, from operators of construction sites, new or redeveloped land, and industrial and commercial facilities;
- To establish legal authority to implement inspection and enforcement procedures to ensure compliance with this Ordinance;
- To respond to non-compliance with Best Management Practices (BMPs) required by the small MS4 consistent with its ordinances or other regulatory mechanism(s);
- To assess penalties, including monetary, civil, or criminal penalties; and
- To enter into interagency or interlocal agreements or other maintenance agreements, as necessary.

## **Section II. Definitions**

**Applicant** - Property owner or agent of a property owner who filed an application for a stormwater authorization under a TPDES general permit or an individual TPDES permit.

**Authorized Enforcement Agency** - Employees or designees of the Authorized Representative of the City of Socorro, Texas or the Texas Commission on Environmental Quality (TCEQ) have authority to enforce this Ordinance and/or the TPDES regulations.

**Best Management Practices (BMPs)** - Schedule of activities, prohibitions of practices, maintenance procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge of pollutants. BMPs also include treatment practices, operating procedures, and practices to control runoff, spills or leaks, waste disposal, or drainage from raw materials storage areas.

**Building** - Any structure, either temporary or permanent, with walls and a roof, designed to shelter a person, animal, or property, and occupying more than 100 square feet of area.

**Construction Activity** – Includes soil disturbance, including clearing, grading, and excavating; and does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site (e.g., the

routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities).

**Small Construction Activity** is construction activity that results in land disturbances equal to less than five (5) acres of land. Small construction activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb less than five (5) acres of land.

**Large Construction Activity** is construction activity that results in land disturbance of equal to or greater than five (5) acres of land. Large construction activity also includes the disturbance of less than five (5) acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than five acres of land.

**City** – The City of Socorro, Texas.

**Conveyance** - Curbs, gutters, man-made channels and ditches, drains, pipes, and other constructed features designed or used for flood control or to otherwise transport stormwater runoff.

**Hazardous Materials** - Any item or agent (biological, chemical, physical) that has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors.

**Illicit Connection** - Any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

**Illicit Discharge** - Any discharge to a municipal separate storm sewer that is not entirely composed of stormwater, except discharges pursuant to a TPDES stormwater general permit or a separate authorization and discharges resulting from emergency firefighting activities.

**Land Disturbance Activity** - Any activity which changes the volume or discharge rate of stormwater runoff from the land surface. This includes grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

**Maintenance Agreement** - A formal contract between a local government and a property owner to guarantee long-term maintenance of stormwater management practices.

**Non-Stormwater Discharge** - Any discharge to the storm drain system that is not composed entirely of stormwater.

**Operator / Construction Site Operator** - The entity or entities associated with a small or large construction project that meet(s) either of the following two criteria:

- (a) The entity or entities that have operational control over construction plans and specifications (including approval of revisions) to the extent necessary to meet the requirements and conditions of this general permit; or
- (b) The entity or entities that have day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with a stormwater pollution prevention plan (SWP3) for the site or other permit conditions (for example they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions).

**Person** - Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

**Pollutant** – In accordance with the Texas Water Code, §26.001(13) a pollutant includes the following: dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any water in the state.

**Premises** - Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**Stormwater and Stormwater Runoff** - Rainfall runoff, snow-melt runoff, and surface runoff and drainage.

**Stormwater Management** - The use of structural or non-structural control practices/BMPs designed to reduce stormwater pollutant runoff, discharge volumes, peak flow discharge rates, and detrimental changes in stream temperature that affect water quality.

**Stormwater Pollution Prevention Plan (SWP3)** - A document that describes the Best Management Practices and activities to be implemented by the permit holder to identify sources of pollution or contamination at a site and actions to eliminate or reduce pollutant discharges.

**Stormwater Control Practices** - Structural or nonstructural measures to minimize stormwater runoff to surface water in the state.

**Surface Water in the State** - Lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state (from the mean high water mark (MHW) out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all water-courses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment systems which are authorized by state or federal law, regulation, or permit, and which are created for the purpose of waste treatment are not considered to be water in the state.

**Texas Pollutant Discharge Elimination System Stormwater (TPDES) Discharge Permit** - A permit issued by the TCEQ, under the authority of Texas Water Code Sections 26.027 or 26.040 that authorizes the discharge of pollutants into or adjacent water in the state. The TPDES program is administered under the authority delegated pursuant to 33 U.S.C. Section 1342(b).

**Unauthorized Discharge** - Any direct or indirect non-stormwater discharge to the storm drain system except as exempted in Section V Prohibition of Illicit Connections of this Ordinance.

### **Section III. Applicability**

Unless exempted, this Ordinance applies to discharges entering the storm drain system within the jurisdictional limits of the City.

### **Section IV. Responsibility for Administration**

The City shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted, or duties imposed upon the City Manager may be delegated in writing by the City Manager to persons or entities acting in the beneficial interest of the City of Socorro, Texas.

Code enforcers and/or City officials under this Section shall have the authority to enforce this Ordinance in its entirety and shall be designated as a TPDES Stormwater Manager and/or Inspector. Any person subject to an industrial or construction TPDES stormwater discharge permit or authorization shall comply with all provisions of the permit and may be required by the City of Socorro, Texas to have authorization to discharge stormwater into the MS4.

### **Section V. Prohibition of Illicit Connections and Discharges**

The City has the authority to prohibit illicit discharges and illicit connections in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)a. This Ordinance prohibits unauthorized discharges into the storm drain system. No person shall release discharges into the municipal storm drain containing any pollutants that cause or contribute to a violation of water quality standards, other than stormwater or authorized non-stormwater discharges.

No person may introduce into any pond, stream, canal, drain, or municipal separate storm sewer system (MS4) within the city:

- a. Wastewater from washout of concrete and wastewater from water well drilling operations, unless managed by an appropriate control;
- b. Wastewater from washout and cleanout of stucco, paint, from release oils, and other construction materials;

- c. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and,
- d. Any free or emulsified fats, waxes, greases, or oils; and
- e. Soaps or solvents used in vehicle and equipment washing; and
- f. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, unless managed by appropriate BMPs; and
- g. Solid or liquid substances that may cause obstruction to the flow in storm sewers or other interference with the proper operation of the stormwater system; and
- h. Trash, junk, refuse, garbage, grass clippings, tree limbs, tree branches, leaves, brush, or firewood; and
- i. Any pollutants or materials other than stormwater that may have an adverse effect on the environment; may endanger life, health, or property; or constitute a public nuisance;
- j. Any discharges that would cause or has the reasonable potential to cause or contribute to a violation of water quality standards or that would fail to protect and maintain existing designated uses;

Discharges from illicit connections are unauthorized, even if the connection was allowable under previous rules and regulations. However, **the following are examples of allowable non-stormwater discharges** as per TPDES Phase II MS4 Permit TXR040000 Part II Section C:

- a. Water line flushing (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life;
- b. Runoff from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;
- c. Discharges from potable water sources that do not violate Texas Surface Water Quality Standards in accordance with 30 TAC 307;
- d. Diverted stream flows; and
- e. Individual residential vehicle washing.

## **Section VI. Response to Releases**

The City has the authority to respond to and contain other releases. The City must control the discharge of a spill and prohibit dumping or disposal of material other than stormwater and authorized non-stormwater discharges into the small MS4 in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)b. Any person in violation of this Ordinance may risk having their discharge authorization to the MS4 terminated. The City will notify the violator of the proposed termination of its authorization. The violator may petition the City to reconsider and schedule a hearing.

When the person responsible has knowledge of any known or suspected release of materials resulting in, or potentially resulting in, unauthorized discharges into a storm sewer system or surface water in the state, the person must contain and clean up the release. If hazardous materials are released, the person must immediately notify emergency response agencies. If non-hazardous materials are released, the person must



notify the City no later than the next business day. Notifications in person or by telephone must be confirmed by written notice addressed to the City.

During emergency situations involving unauthorized discharges from illicit connections, the City shall suspend a person's MS4 authorization to stop an actual or threatened discharge which may present danger to the MS4 or surface water in the state. If the violator fails to comply, the City shall take necessary steps to prevent or minimize damage to the MS4 or surface water in the state at the violator's expense.

## **Section VII. Permit Procedures and Requirements**

The City shall enforce compliance with the permittee's ordinances, permits, contracts, or orders in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)c.

Unless specifically excluded by this Ordinance, the land owner or operator seeking a permit for land disturbance activity shall submit to the City a permit application on a form provided for that purpose. The permit application must be accompanied by the following:

1. A stormwater management plan (as referenced in Section IX "Requirements for Stormwater Management Plan Approval" in this Ordinance);
2. A stormwater maintenance agreement to be drafted and provided by the applicant;
3. An erosion and sediment control plan indicating the specific measures for the erosion and sediment control on a development site during and after construction; and
4. A non-refundable permit fee.

Note that TPDES Construction General Permit TXR150000 requires regulated construction activities (those disturbing one acre or more) to provide a signed and certified construction site notice to the operator of any MS4 receiving the construction site stormwater discharge prior to commencement of land disturbing activities. See [TXR150000 Part II Sections E. 1.\(f\), 2.\(c\), and 3.\(d\) and \(f\)](#).

### **Application Procedure**

Applications for land disturbance activity permits must be filed with the Planning and Zoning Department on any regular business day.

Permit applications shall include the following:

1. Three (3) copies of the stormwater management plan, and
2. Three (3) copies of the maintenance agreement, and
3. Three (3) copies of the erosion and sediment control plan, and
4. All required fees.

Within ten (10) business days of receipt of a complete permit application, the City of Socorro, Texas shall inform the applicant whether the application, stormwater

management plan, and maintenance agreement are approved or disapproved.

### **Application Review Fees**

Please refer to Table A-33-A and Table A-33-B for a schedule of fees.

## **Section VIII. Maintenance and Repair of Stormwater Facilities**

The City has the authority to require installation, implementation, and maintenance of control measures in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)d.

### **Maintenance Easement**

Prior to the issuance of any permit that has a stormwater management facility the applicant of the site must implement a maintenance easement agreement that binds all subsequent owners of land served by the stormwater management facility. The agreement allows the City or their contractor/agent access to the facility to periodically inspect if the facility is maintained in proper working condition and meets design standards and other provisions established by this Ordinance. The easement agreement shall be recorded by the applicant in the EP County Public Records.

### **Maintenance Covenants**

The applicant must develop a maintenance covenant articulating a schedule of maintenance activities and plans for periodic inspections to assess the proper functioning of the stormwater management facility. The maintenance covenant shall be approved by the City and recorded into the land records prior to the final plat approval.

### **Requirements for Annual Self-Inspections**

All stormwater management facilities must undergo, at minimum, an annual self-inspection to document maintenance and repair needs and to verify compliance with the requirements of this Ordinance.

The inspections shall be in writing and either submitted to the City or maintained in a manner that allows local inspectors the ability to review the results of inspections in conjunction with a site compliance review. Maintenance and repair may include: removal of silt, litter, and other debris from all catch basins, inlets and drainage pipes; cutting grass and vegetation removal; and replacement of landscape vegetation. Maintenance needs must be addressed in a timely manner as determined by the City. The City may implement more stringent inspection and maintenance requirements.

### **Failure to Maintain Practices**

If the stormwater management facility becomes a danger to public safety or public health, the City shall notify the party responsible for maintenance of the stormwater management



facility in writing. Upon receipt of that notice, the responsible person shall have seven (7) days to meet maintenance and repair requirements. If the owner of the facility fails to comply with the requirements of the maintenance covenant, the City, after reasonable notice, may perform all necessary work to bring the facility into compliance at the owner's expense. Extensions shall be granted at the code enforcer's discretion.

### **Section IX. Requirements for Stormwater Management Plan Approval**

The City has the authority to receive and collect information stormwater pollution prevention plans, inspection reports, etc. from any person in responsible charge in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2).e to assess compliance with this permit. All reports shall be prepared by a registered professional engineer.

A stormwater management plan is required with all grading permit applications including detailed information (e.g. surveys, hydrologic calculations, etc.) to evaluate the environmental characteristics of the project site, potential impacts of proposed developments (both present and future), and the effectiveness of proposed stormwater management measures to regulate stormwater runoff. The stormwater management plan shall be prepared by a registered professional engineer.

The following details must be included in the stormwater management plan:

- **Contact Information:** The name, address, and telephone number of all persons with a legal interest in the property and the tax reference number and parcel number of the property or properties affected.
- **Location map(s)** identifying the location of existing and proposed buildings, roads, parking areas, utilities, and structural stormwater management and sediment control facilities. The map(s) must show proposed land use and percentage of surface area to be adapted to various uses. The maps must identify drainage patterns, locations of utilities, roads and easements, the limits of clearing and grading, and a written description of the site plan.
- **Sufficient engineering analysis** to demonstrate the proposed stormwater management measures will control runoff from the site and half of the public right of way frontage.
- **Soils and Natural Resources Report** - An inventory of the natural resources at the site and surrounding area prior to proposed activities and a description of the watershed and its relation to the project site. The description should include the soil conditions, vegetation cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
- **A written description** of the maintenance requirements for any proposed stormwater management facility.

- An erosion and sediment control plan must be included for all construction activities involving on-site stormwater management practices.

For any activity on a previously developed site, the applicant must indicate within the stormwater management plan the best management practices it will utilize to control stormwater runoff from the site in accordance with the standards of this Ordinance. If modifications to the stormwater management plan are necessary by the City, a final stormwater management plan must be submitted for review and approval by the Texas Commission on Environmental Quality (TCEQ).

### **Section X. Authority to Enter and Inspect**

The City has the authority to enter and inspect private property including facilities, equipment, practices, or operations related to stormwater discharges to the small MS4 in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)f.

- The City may enter and inspect facilities, equipment, practices and operations subject to regulation under this Ordinance as often as necessary to determine compliance with this Ordinance. If a discharger's security measures require proper identification and clearance before entry into the premises, the discharger shall make necessary arrangements to allow access to representatives of the City.
- Facility operators shall allow the City access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records.
- The City shall have the right to monitor and/or sample the facility's stormwater discharge.
- The City may require the discharger to install and maintain necessary sampling and monitoring equipment
- The operator must remove temporary or permanent obstruction(s) at the written or oral request of the City of Socorro, Texas to allow safe and easy access to the facility for inspection and/or sampling purposes. The costs of clearing access will be borne by the operator and the obstructions may not be replaced.
- Unreasonable delays in allowing the City access to a permitted facility is a violation of a TPDES stormwater discharge permit and of this Ordinance. A person commits an offense if the authorized enforcement agency is denied reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance.

The applicant shall notify the City prior to commencing construction activity. The City shall regularly inspect the construction of stormwater management system and document in a written report:

- a. The date and location of the inspection
- b. Final Assessment- if construction activity complies with the stormwater management plan
- c. Approved construction specifications
- d. Identified violations - property owner must be notified in writing of the nature of the violation and the required corrective actions.

- e. Name and signature of the inspector

### **Section XI. Best Management Practices (BMPs) to Reduce Stormwater Pollutants**

The City has the authority to respond to non-compliance with BMPs required by the City in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)g. The City shall adopt measures to identify BMPs for any activity, operation, or facility which may facilitate pollution of stormwater, the storm drain system, or surface water in the state. The owner or operator of a commercial or industrial establishment shall implement, at their own expense, appropriate pollution control measures through the use of structural and non-structural BMPs to prevent and reduce discharge of pollutants into the municipal storm drain system or watercourses. The BMPs must be identified in the Stormwater Pollution Prevention Plan (SWP3) to satisfy requirements of the TPDES permit.

### **Section XII. Enforcement**

The City has the authority to assess penalties, including monetary, civil, or criminal penalties in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)h.

If the City finds a person in violation with this Ordinance, the City may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- The performance of monitoring, analysis, and reporting by the owner or operator
- The elimination of illicit connections or discharges by the owner or operator
- The termination of existing discharges or practices and/or operations in violation of this Ordinance
- The abatement and/or remediation of stormwater pollution or contamination hazards
- The implementation of pollution control measures or treatment BMPs

If the property must be remediated, the notice must establish a deadline to restore the site. The notice will further advise that, if the violator fails to remediate the site by the deadline, a designated governmental agency or contractor will restore the site at the expense of the violator.

### **Appeal of Notice of Violation**

Any person receiving a Notice of Violation may appeal the determination to the City. The Notice of Appeal must be received within ten (10) days from the date of the Notice of Violation. Hearing on the appeal shall take place within thirty (30) days from the date of receipt of the Notice of Appeal. The decision of the City, Board of Adjustments, or their designee shall be final.

## **Enforcement Measures after Appeal**

If the violation and requirements to be met remain uncorrected after the deadline set forth in the Notice of Violation, or, in the event of an appeal, then representatives of the City shall enter the regulated property to take the necessary actions to abate the violation and/or restore the property. It shall be unlawful for any person to refuse the City to enter upon the premises for the purposes set forth above.

## **Cost of Abatement of the Violation**

Within thirty (30) days after abatement of the violation, the owner of the property shall be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days. If the amount due is not paid within a timely manner as determined by the decision of the City or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City by reason of such violation.

## **Injunctive Relief**

It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this Ordinance, the City may petition for a preliminary or permanent injunction restraining the person entity from activities prompting further violations or compel the person to perform abatement or remediation of the violation(s).

## **Compensatory Action**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the City may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, drainage cleanup, etc.

## **Criminal Prosecution and Penalties**

Any person that violated or continues to violate this Ordinance shall be liable to criminal prosecution to the fullest extent of the law and shall be subject to a criminal penalty of not more than \$1,000 dollars per violation. Each day of continuing violation shall constitute a separate violation.

The City may recover all attorney fees, court costs, and other expenses associated with enforcement of this Ordinance, including sampling and monitoring expenses.

## **Fines and Policy**

The City is authorized to develop a schedule of fines and to develop policy from time to time to assure compliance with requirements of Section I "Intent and Purpose". The schedule of fines shall adhere to all applicable local, state and federal laws. The policy

shall include, but will not be limited to, development of a TPDES enforcement program, staff training requirements, development of job descriptions, assignment of fines to specific violations (including the payment of fines to cover administrative and remediation costs), budget requirements, and job assignments.

### **Section XIII. Maintenance Agreements**

The City has the authority to enter into interagency or interlocal agreements or other maintenance agreements, as necessary in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)i. This agreement will include maintenance easements to access and inspect stormwater control practices and perform routine maintenance to ensure proper stormwater control. A legally binding covenant will identify the responsible parties to maintain stormwater control practices.

### **Section XIV. Ultimate Responsibility**

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore, this Ordinance does not intend nor imply that compliance by any person will ensure prevention of contamination, pollution, and unauthorized discharge of pollutants.

### **Section XV. Separability**

The provisions and sections of this Ordinance shall be deemed to be independent, and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder.

### **Section XVI. Adoption of Ordinance**

This Ordinance shall be in full force and effect after its final passage and adoption. All prior Ordinances in conflict with this Ordinance are hereby repealed.

Passed and Adopted this 16 day of May, 20  .

ATTEST:



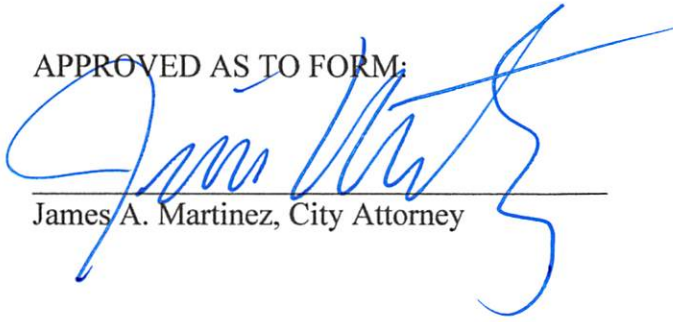
Olivia Navarro, City Clerk



CITY OF SOCORRO

  
Elia Garcia, Mayor

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read 'James A. Martinez', is written over a horizontal line. The signature is stylized and extends above and below the line.

James A. Martinez, City Attorney

Introduction, First Reading and Calling for a Public Hearing April 18, 2019  
Second Reading and Adoption: May 16, 2019