

## **CHAPTER 25-7. DRAINAGE.**

### **ARTICLE 1. GENERAL PROVISIONS.**

- § 25-7-1      Applicability of Chapter
- § 25-7-2      Definitions
- § 25-7-3 [2]    Obstruction of Waterways Prohibited
- § 25-7-4 [3]    Duty to Maintain Unobstructed Waterways
- § 25-7-5 [4]    Standing Water Declared a Nuisance
- ~~§ 25-7-5      25-year and 100-year Floodplain Determination]~~
- § 25-7-6      Computation of Stormwater Runoff

### **ARTICLE 2. DRAINAGE STUDIES; EROSION HAZARD ANALYSIS; FLOODPLAIN [AND FLOODWAY] DELINEATION.**

- § 25-7-31      Director Authorized to Require Drainage Studies
- § 25-7-32      Director Authorized to Require Erosion Hazard Zone Analysis
- § 25-7-33      Floodplain Maps, Delineation, and Depiction

### **ARTICLE 3. REQUIREMENTS FOR APPROVAL.**

- § 25-7-61      Criteria for Approval of Plats, Construction Plans, and Site Plans
- § 25-7-62      Certificate of Professional Engineer Required for Certain Alterations and Improvements
- ~~§ 25-7-63      Review by Parks and Recreation Board of Certain Site Plans]~~
- § 25-7-63[64]   Approval [by Watershed Protection Department Director] of Certain Permits and Certificates
- § 25-7-64      Design and Construction of Drainage Facilities and Improvements
- § 25-7-65      Enclosed Storm Drains, Bridges, and Culverts
- ~~§ 25-7-65      Fiscal Security Required]~~

### **ARTICLE 4. SPECIAL REQUIREMENTS IN ZONING JURISDICTION.**

- § 25-7-91      Applicability of Article
- § 25-7-92      Encroachment on Floodplain Prohibited
- § 25-7-93      General Exceptions
- § 25-7-94      Requirements [Exceptions] in Central Business Area
- § 25-7-95      Requirements [Exceptions] for Parking Areas
- § 25-7-96      Requirements [Exceptions] in the 25-Year Floodplain

### ~~**ARTICLE 5. DESIGN AND CONSTRUCTION STANDARDS.**~~

- ~~§ 25-7-121      Design and Construction of Drainage Facilities and Improvements~~
- ~~§ 25-7-122      Enclosed Storm Sewer System~~
- ~~§ 25-7-123      Enclosed Storm Sewers, Bridges, and Culverts~~
- ~~§ 25-7-124      Manholes Required for Covered Watercourses~~
- ~~§ 25-7-125      Open Drainage Ditches]~~

### **ARTICLE 5 [6]. RESPONSIBILITIES OF OWNER OR DEVELOPER.**

- § 25-7-151      Stormwater Conveyance and Drainage Facilities

- § 25-7-152 Dedication of Easements and Rights-of-way  
§ 25-7-153 Detention Basin Maintenance and Inspection

## **ARTICLE 1. GENERAL PROVISIONS.**

### **§ 25-7-1 APPLICABILITY OF CHAPTER.**

(A) Except as provided in Subsection (B), this chapter applies in the planning jurisdiction.

(B) For the preliminary plan, final plat, or subdivision construction plan in the portion of the city's extraterritorial jurisdiction that is within Travis County:

- (1) this chapter does not apply; and
- (2) Title 30 (Austin/Travis County Subdivision Regulations) governs.

### **§ 25-7-2 DEFINITIONS**

In this chapter:

(1) ADVERSE FLOODING IMPACT means an increase in flood risk or hazards.

(2) DEVELOPMENT APPLICATION means an application required under Title 25 for development, such as an application for subdivision, site plan, or building permit.

(3) DIRECTOR, when used without a qualifier, means the director of the Watershed Protection Department, or the director's designee.

(4) DRAINAGE EASEMENT means an easement or right-of-way for a drainage facility required by Section 25-7-152 (*Dedication of Easements and Rights-Of-Way*).

(5) EROSION HAZARD ZONE means an area where future stream channel erosion is predicted to occur using an analysis of land cover, hydrology, geology, and soils and taking into consideration protective works to be provided as prescribed in the Drainage Criteria Manual. An erosion hazard zone provides a boundary outside of which resources are not expected to be threatened as a result of future stream erosion.

(6) FEMA means the Federal Emergency Management Agency.

(7) FEMA FLOODPLAIN means a special flood hazard area delineated on a flood insurance rate map.

(8) FLOOD INSURANCE RATE MAP means an official map of a community on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

(9) 100 YEAR FLOODPLAIN means the 100-year floodplain calculated under fully developed conditions as prescribed by the Drainage Criteria Manual.

(10) 25 YEAR FLOODPLAIN means the 25-year floodplain calculated under fully developed conditions as prescribed by the Drainage Criteria Manual.

(11) WATERWAY means a watercourse, drainage way, branch, creek, or stream including, but not limited to, the limits of the 100-year and 25-year floodplains.

**§ 25-7-3[2] OBSTRUCTION OF WATERWAYS PROHIBITED.**

Unless authorized by a development application ~~[a site plan]~~ approved under Title 25[Chapter 25-5 (Site Plans)], a person may not place, or cause to be placed, an obstruction in a waterway.

**§ 25-7-4[3] DUTY TO MAINTAIN UNOBSTRUCTED WATERWAYS.**

The person in control of real property traversed by a waterway shall keep the waterway free from an obstruction that is not authorized by a development application approved under Title 25[site plan].

**§ 25-7-5[4] STANDING WATER DECLARED A NUISANCE.**

A pool of standing water in a waterway that is caused by an unauthorized obstruction in the waterway is declared to be a nuisance.

**~~§ 25-7-5 25-YEAR AND 100-YEAR FLOODPLAIN DETERMINATION.~~**

~~——— In this chapter, a reference to the 25-year floodplain or the 100-year floodplain means the 25-year or 100-year floodplain as that floodplain is calculated to exist under fully developed conditions as determined under the Drainage Criteria Manual.]~~

**§ 25-7-6 COMPUTATION OF STORMWATER RUNOFF.**

Stormwater runoff shall be computed on the basis of a fully developed contributing drainage area or watershed as determined under the Drainage Criteria Manual.

**ARTICLE 2. DRAINAGE STUDIES; EROSION HAZARD ANALYSIS; FLOODPLAIN [AND FLOODWAY] DELINEATION.**

**§ 25-7-31 DIRECTOR AUTHORIZED TO REQUIRE DRAINAGE STUDIES.**

(A) The director may require the owner of real property to provide, at the owner's expense and as a condition for development application ~~[preliminary plan]~~ approval, a drainage study for the total area to be ultimately developed.

(B) The drainage study must be in accordance with the ~~[Administrative Manual and the]~~ Drainage Criteria Manual.

(C) If a drainage study is required under this section~~[Until the director receives the drainage study]~~, the City ~~[director]~~ may not accept for review a development application ~~[construction plan]~~ for any portion of the proposed development until the director has received the required drainage study.

**§ 25-7-32 DIRECTOR AUTHORIZED TO REQUIRE EROSION HAZARD ZONE ANALYSIS.**

(A) The director may require the owner of real property to provide, at the owner's expense and as a condition for development application approval, an analysis to establish the erosion hazard zone if the proposed development is:

- (1) within 100 feet of the centerline of a waterway with a drainage area of 64 acres or greater; or
- (2) located where significant erosion is present.

(B) The erosion hazard zone analysis must be in accordance with the Drainage Criteria Manual.

(C) If an erosion hazard zone analysis is required under this section, the City may not accept for review a development application for any portion of the proposed development until the director has received the required erosion hazard zone analysis.

### **§ 25-7-33 [32] FLOODPLAIN MAPS, DELINEATION, AND DEPICTION.**

~~(A)[In this section:~~

~~(1) DRAINAGE EASEMENT means an easement or right-of-way for a drainage facility required by Section 25-7-152 (Dedication of Easements and Rights-Of Way).~~

~~(2) FEMA FLOODPLAIN means a special flood hazard area delineated on a flood insurance rate map.~~

~~(3) FLOOD INSURANCE RATE MAP means an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.~~

~~(B)}~~ The director shall designate and maintain official floodplain maps ~~[delineating the 100-year floodplain].~~

~~(B)[(C)]~~ If an official floodplain map is not delineated [available], the owner of property to be developed shall calculate the boundaries of the 100-year floodplain in accordance with the Drainage Criteria Manual and submit the calculation to the director for approval.

~~(C)[(D)]~~ If the director determines that FEMA [Federal Emergency Management Agency] regulations require a submission to the agency of a request for a flood insurance rate map revision, the director may require that the revision request to FEMA be submitted by the owner of property to be developed [submit the revision request].

~~(D)[(E)]~~ A person who files a development application [an application for approval of a preliminary plan, final plat, subdivision construction plan, or site plan] shall depict, as applicable:

- (1) on a preliminary plan or subdivision construction plan:
  - (a) a 100-year floodplain;
  - (b) a FEMA floodplain; and
  - (c) a drainage easement or proposed drainage easement;
- (2) on a final plat:
  - (a) a drainage easement; and
  - (b) a portion of a FEMA floodplain that is outside a drainage easement ;~~[-or]~~
- (3) on a site plan, including site plan exemption or general permit:
  - (a) a 100-year floodplain;

- (b) a FEMA floodplain; and
- (c) a drainage easement; or[-]
- (4) on a residential building permit:
  - (a) a 100-year floodplain;
  - (b) a FEMA floodplain; and
  - (c) a drainage easement.

~~(E)~~~~(F)~~ If a portion of a FEMA floodplain is outside a drainage easement, the owner of property to be developed shall, on a final plat:

- (1) identify the portion of the FEMA floodplain that is outside the drainage easement, including the community and panel number of the flood insurance rate map; and
- (2) include a note that:
  - (a) refers the reader to federal regulations governing development in a FEMA floodplain;
  - (b) states that flood insurance may be required; and
  - (c) describes efforts to revise the flood insurance rate map.

### ARTICLE 3. REQUIREMENTS FOR APPROVAL.

#### § 25-7-61 CRITERIA FOR APPROVAL OF DEVELOPMENT APPLICATIONS ~~[PLATS, CONSTRUCTION PLANS, AND SITE PLANS]~~.

(A) A development application ~~[final plat, subdivision construction plan, or site plan]~~ may not be approved unless:

- (1) the proposed development application ~~[plat, construction plan, or site plan]~~ demonstrates ~~[provides a]~~ sufficient capacity ~~[waterway]~~ for the design flood, as determined under the Drainage Criteria Manual;
- (2) each proposed improvement is sufficiently strong to resist:
  - (a) external pressure caused by earth or building; and
  - (b) internal pressure or abrasion caused by water or debris;
- (3) the proposed grades will not permit water to gather in a pool that may become stagnant, excluding variable pools in creek beds as a result of natural channel design;
- (4) temporary and permanent measures to control erosion are sufficient to minimize siltation of the waterway, as determined under the Environmental Criteria Manual; and
- (5) the proposed development:
  - (a) will not result in additional ~~[identifiable]~~ adverse flooding impact on other property;
  - (b) to the greatest extent feasible, preserves the natural and traditional character of the land and the waterway; ~~[and]~~

(c) except as provided by Subsection (B), includes on-site control of the two-year peak flow, as determined under the Drainage Criteria Manual and the Environmental Criteria Manual;

(d) will not result in additional erosion impacts on other property; and

(e) locates all proposed improvements outside the erosion hazard zone, unless protective works or bank stabilization is provided as prescribed in the Drainage Criteria Manual.

(B) A proposed development may provide off-site control of the two-year peak flow, if the off-site control will not cause:

- (1) an adverse water quality impact from increased in-stream peak flow; or
- (2) streambank erosion.

**§ 25-7-62 CERTIFICATE OF PROFESSIONAL ENGINEER REQUIRED FOR CERTAIN ALTERATIONS AND IMPROVEMENTS.**

(A) The director may not accept any plan or specification for a proposed alteration or improvement of a bed or bank of a waterway unless the plan or specification is accompanied by a certificate bearing the seal of a Texas professional engineer certifying that:

- (1) the hydraulic and structural design is adequate; and
- (2) the proposed alteration or improvement complies with the ordinances of this City, the Drainage Criteria Manual, and the laws of this state.

(B) Subsection (A) does not prohibit the director from accepting a plan or specification for a minor alteration or improvement that, in the judgment of the director, does not require certification by a Texas professional engineer.

**~~§ 25-7-63 REVIEW BY PARKS AND RECREATION BOARD OF CERTAIN SITE PLANS.~~**

~~\_\_\_\_\_ (A) This section applies to a site plan that includes a proposal to:~~

~~\_\_\_\_\_ (1) modify the shoreline of Lake Austin, Town Lake, or Lake Walter E. Long; or~~

~~\_\_\_\_\_ (2) dredge in or along that lake.~~

~~\_\_\_\_\_ (B) Before the director may approve the site plan, the director must submit the site plan to the Parks and Recreation Board.~~

~~\_\_\_\_\_ (C) The board shall review and comment on:~~

~~\_\_\_\_\_ (1) the navigational safety of the proposed development; and~~

~~\_\_\_\_\_ (2) the effect of the development on the recreational and natural character of the lake.~~

~~\_\_\_\_\_ (D) The board may develop specific criteria for determining:~~

~~\_\_\_\_\_ (1) the navigational safety of a proposed development; or~~

~~\_\_\_\_\_ (2) the effect of a proposed development on the recreational and natural character of Lake Austin, Town Lake, or Lake Walter E. Long.]~~



**§ 25-7-63 [64] APPROVAL [~~BY WATERSHED PROTECTION DEPARTMENT DIRECTOR~~] OF CERTAIN PERMITS AND CERTIFICATES.**

If a development application [~~plat or subdivision construction plan~~] requires the completion or partial completion of a drainage improvement before a building may be constructed on a lot, a building permit or certificate of compliance may not be issued for the lot unless the director of the Planning and Development Review Department approves the issuance.

**§ 25-7-64 DESIGN AND CONSTRUCTION OF DRAINAGE FACILITIES AND IMPROVEMENTS.**

The design and construction of a drainage facility or improvement must:

- (1) be in accordance with the Drainage Criteria Manual; and
- (2) provide for maintenance and protection from erosion in accordance with the Environmental Criteria Manual.

**§ 25-7-65 ENCLOSED STORM DRAINS, BRIDGES, AND CULVERTS.**

(A) The director of the Planning and Development Review Department must approve the plans and specifications for a storm drain, bridge, or culvert.

(B) The city manager shall supervise the construction of each storm drain, bridge, or culvert.

**[§ 25-7-65 FISCAL SECURITY REQUIRED.**

A site plan may be approved only if the applicant provides fiscal security for:

- (1) installing and maintaining erosion and sedimentation controls throughout construction on the site;
- (2) revegetating the site;
- (3) performing on-site and off-site cleanup; and
- (4) remedying any erosion damage that results from development authorized by the site plan.]

**ARTICLE 4. SPECIAL REQUIREMENTS IN ZONING JURISDICTION.**

**§ 25-7-91 APPLICABILITY OF ARTICLE.**

This article applies in the zoning jurisdiction.

**§ 25-7-92 ENCROACHMENT ON FLOODPLAIN PROHIBITED.**

(A) Except as provided in Section 25-7-96 (*Exceptions In The 25-Year Floodplain*), a development application [~~site plan~~] may not be approved if a proposed building or parking area encroaches on the 25-year floodplain.

(B) Except as provided in Sections 25-7-93 (*General Exceptions*), 25-7-94 (*Exceptions in Central Business Area*), and 25-7-95 (*Exceptions for Parking Areas*), a development application [~~site plan~~] may not be approved if a proposed building or parking area encroaches on the 100-year flood plain.

- (C) ~~[This subsection applies to property in the full purpose limits of the city-~~  
~~(1) ]~~The director may grant a variance to Subsection (A) or (B) if the director determines that:
- (1) ~~(a)~~ the finished floor elevation of a proposed building is at least two feet above the 100-year floodplain;
  - (2) ~~(b)~~ normal access to a proposed building is by direct connection with an area above the regulatory flood datum, as prescribed by Chapter 25-12, Article 1 (~~[Uniform]~~ *Building Code*);
  - (3) ~~(c)~~ a proposed building complies with the requirements in Chapter 25-12, Article 1, Section 25-12-3 Appendix G ~~[Chapter 58]~~ (*Flood Resistant Construction* ~~[Damage Prevention]~~) and Section 1612 (*Flood Loads*) ~~[Appendix Chapter 59 (Floodplain Regulations)]~~;
  - (4) ~~(d)~~ the development compensates for the floodplain volume displaced by the development;
  - (5) ~~(e)~~ the development improves the drainage system by exceeding the requirements of Section 25-7-61 (*Criteria for Approval of Development Applications* ~~[Plats, Construction Plans, and Site Plans]~~), as demonstrated by a report provided by the applicant and certified by an engineer registered in Texas;
  - (6) ~~(f)~~ the variance is required by unique site conditions; and
  - (7) ~~(g)~~ development permitted by the variance does not result in additional adverse flooding impact on ~~[of]~~ other property.
- (D) ~~(2)~~ The director shall prepare written findings to support the grant or denial of a variance request under this Section ~~[subsection]~~.

### **§ 25-7-93 GENERAL EXCEPTIONS.**

- (A) A development application ~~[site plan]~~ with a proposed building or parking area that encroaches on the 100-year floodplain may be approved if the encroachment is:
- (1) a parking area that is smaller than 5,000 square feet or an unoccupied structure that has an area of less than 1,000 square feet, and the director determines that the proposed development:
    - ~~(a) will not have an adverse effect on the 100-year floodplain or surrounding properties; and~~
    - ~~(b)~~ otherwise complies with the requirements of this title;
  - (2) a single-family or duplex residential structure in a subdivision:
    - (a) recorded before September 25, 1983; and
    - (b) in which only one residential structure is built on a single lot;
  - (3) a building authorized by a waterway development permit issued under Chapter 9-10 before September 25, 1983;
  - (4) a building in the 100-year floodplain of:
    - (a) Lady Bird ~~[Town]~~ Lake; or
    - (b) the Colorado River downstream from Longhorn Dam; or
  - (5) a boat dock in the 100-year floodplain of Lady Bird ~~[Town]~~ Lake, Lake Walter E. Long, or Lake Austin, and construction of the dock is otherwise permitted under this title.



(B) A development application [~~site plan~~] that may be approved under this section must:

(1) comply with the flood proofing requirements of Chapter 25-12, Article 1 ([~~Uniform~~] *Building Code*); and

(2) result in no additional adverse flooding impact on other properties, as determined by the director .

**§ 25-7-94 REQUIREMENTS [~~EXCEPTIONS~~] IN CENTRAL BUSINESS AREA.**

(A) This section establishes requirements that apply [~~applies~~] in the central business area.

(B) In this section, central business area means the area bounded by Interstate Highway 35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.

(C) A development application [~~site plan~~] with a proposed building or parking area that encroaches on the 100-year flood plain may be approved if:

(1) the floor slab of a proposed building is at least two feet above the 100-year floodplain;

(2) normal access to that building is by direct connection with an area above the regulatory flood datum, as defined by Chapter 25-12, Article 1 ([~~Uniform~~] *Building Code*);

(3) development associated with construction of the building compensates for any floodplain volume displaced by that construction; and

(4) the applicant demonstrates by means of a study certified by a Texas registered professional engineer that the construction of the building and development activities associated with that building improves the drainage system by exceeding the minimum requirements of Sections 25-7-3 [2] (*Obstruction Of Waterways Prohibited*), 25-7-4 [3] (*Duty To Maintain Unobstructed Waterways*), and 25-7-5 [4] (*Standing Water Declared A Nuisance*).

(D) The director may waive a requirement of Subsection (C) if:

(1) the applicant submits:

(a) a written request identifying the requirement to be waived;

and

(b) a justification for the waiver prepared by a Texas registered engineer certifying that waiving the requirement will not result in additional adverse flooding of other property; and

(2) the director determines that:

(a) the waiver is required by unique site conditions;

(b) the waiver is a minimum departure from the requirements

of Subsection (C); and

(c) waiving the requirement will not result in additional adverse flooding of other property.

(E) A development application [~~site plan~~] that may be approved under this section must comply with the flood proofing requirements of Chapter 25-12, Article 1 ([~~Uniform~~] *Building Code*).

**§ 25-7-95 REQUIREMENTS [~~EXCEPTIONS~~] FOR PARKING AREAS.**

(A) **This section establishes requirements that apply to the development of a parking area.**

(B) A development application [site plan] with a proposed parking area that encroaches on the 100-year floodplain may be approved if:

(1) the level of water detention or waterflow in the parking area during the 100-year storm does not exceed:

- (a) an average depth of eight inches; or
- (b) a maximum depth of 12 inches at any point; and

(2) appropriate signs, approved by the director, are posted to notify persons that the water detention or waterflow in the parking lot may exceed a depth of eight inches.

**(C) [(B)]** Notwithstanding the requirements of Subsection (B) [(A)], a development application [site plan] with a proposed parking area that encroaches on the 100-year floodplain may be approved if the parking area is:

(1) accessory to a single-family or duplex residential structure on a lot in a subdivision recorded before September 25, 1983;

(2) authorized by a waterway development permit issued under Chapter 9-10 before September 25, 1983; or

(3) in the 100-year floodplain of:

- (a) Lady Bird [Town] Lake; or
- (b) the Colorado River downstream from Longhorn Dam.

#### **§ 25-7-96 REQUIREMENTS [EXCEPTIONS] IN THE 25-YEAR FLOODPLAIN.**

(A) **This section establishes requirements that apply to development in the 25-year floodplain.**

(B) A development application [site plan] with a proposed building or parking area that encroaches on the 25-year floodplain may be approved if:

(1) the building or parking area is located on parkland, a golf course, or other public or recreational land;

(2) the building, if any, is a restroom or bath facility, concession stand, tool shed, or pump house, with an area of less than 1,000 square feet;

(3) the parking area, if any, is smaller than 5,000 square feet; and

(4) the director determines that the proposed development:

(a) will not result in [have an] additional adverse flooding impact on [effect on the 100-year floodplain or surrounding] other properties; and

(b) otherwise complies with the requirements of this title.

**(C) [(B)]** A development application [site plan] approved under this section must comply with the flood proofing requirements of Chapter 25-12, Article 1 ([Uniform] Building Code).

### **[ARTICLE 5. DESIGN AND CONSTRUCTION STANDARDS.]**

#### **§ 25-7-121 DESIGN AND CONSTRUCTION OF DRAINAGE FACILITIES AND IMPROVEMENTS.**

~~\_\_\_\_\_ The design and construction of a drainage facility or improvement must:~~  
~~\_\_\_\_\_ (1) be in accordance with the Drainage Criteria Manual; and~~  
~~\_\_\_\_\_ (2) provide for maintenance and protection from erosion in accordance with the Environmental Criteria Manual.]~~

**~~§ 25-7-122 ENCLOSED STORM SEWER SYSTEM.~~**

~~\_\_\_\_\_ An enclosed storm sewer system is required to accommodate the portion of the design flow that exceeds street capacities as determined under the Drainage Criteria Manual.~~

**~~§ 25-7-123 ENCLOSED STORM SEWERS, BRIDGES, AND CULVERTS.~~**

~~\_\_\_\_\_ (A) Except as provided in Section 25-7-125 (Open Drainage Ditches), the subdivider shall install enclosed storm sewers, bridges, and culverts throughout the entire length of the drainage area in a subdivision.~~

~~\_\_\_\_\_ (B) The director must approve the plans and specifications for a storm sewer, bridge, or culvert.~~

~~\_\_\_\_\_ (C) The city manager shall supervise the construction of each storm, sewer, bridge, or culvert.~~

**~~§ 25-7-124 MANHOLES REQUIRED FOR COVERED WATERCOURSES.~~**

~~\_\_\_\_\_ (A) If a creek, branch, drainway, or watercourse is covered, manholes shall be installed at intervals of not more than one-half the length of an average city block.~~

~~\_\_\_\_\_ (B) Each manhole required by Subsection (A):~~

~~\_\_\_\_\_ (1) must have a removable cover; and~~

~~\_\_\_\_\_ (2) must be at least two feet in diameter.~~

~~\_\_\_\_\_ (C) Work required by Subsection (A):~~

~~\_\_\_\_\_ (1) must be done under the supervision of the city manager; and~~

~~\_\_\_\_\_ (2) may be inspected at any time by an officer or employee of the City.~~

**~~§ 25-7-125 OPEN DRAINAGE DITCHES.~~**

~~\_\_\_\_\_ An open drainage ditch may be constructed only if the director determines that the ditch will not adversely affect the public health, safety, or general welfare.]~~

**ARTICLE 5 [6]. RESPONSIBILITIES OF OWNER OR DEVELOPER.**

**§ 25-7-151 STORMWATER CONVEYANCE AND DRAINAGE FACILITIES.**

(A) The owner or developer of property to be developed is responsible for the conveyance of all stormwater flowing through the property, including stormwater that:

(1) is directed to the property by other developed property; or

(2) naturally flows through the property because of the topography.

(B) Future upstream development shall be accounted for as determined under the Drainage Criteria Manual.

(C) If the construction or improvement of a storm drainage facility is required along a property line that is common to more than one property owner, the owner proposing to develop the property is, at the time the property is developed, responsible for each required facility on either side of the common property line.

(D) The responsibility of the owner proposing to develop the property includes the responsibility to dedicate or obtain the dedication of any right-of-way or easement necessary to accommodate the required construction or improvement of the storm drainage facility.

(E) If an owner of property proposes to develop only a portion of that property, a stormwater drainage facility to serve that portion of the property proposed for immediate development or use is required, unless the director determines that construction or improvement of a drainage facility outside that portion of the property to be developed is essential to the development or use of the property to be developed.

(F) The owner or developer shall provide adequate off-site drainage improvements to accommodate the full effects of the development. The city may assist the owner or developer in the acquisition of an interest in property necessary to provide an off-site improvement, if the owner or developer:

- (1) by affidavit, certifies that a bona fide attempt to provide the off-site drainage improvements has not been successful; and
- (2) provides an adequate guarantee that the owner or developer will:
  - (a) finance the entire cost of acquiring the necessary property interest; and
  - (b) retain full responsibility for construction of the required off-site improvement.

#### **§ 25-7-152 DEDICATION OF EASEMENTS AND RIGHTS-OF-WAY.**

(A) The owner of real property proposed to be developed shall dedicate to the public an easement or right-of way for a drainage facility, open or enclosed, and stormwater flow to the limits of the 100-year floodplain, as prescribed in the Drainage Criteria Manual.

(B) An easement or right-of-way required by Subsection (A) must be of sufficient width to provide continuous access for the operation, maintenance, or repair of a drainage facility as prescribed in the Drainage Criteria Manual.[:

- \_\_\_\_\_ (1) a minimum of 25 feet in width for an open drainage system; or  
\_\_\_\_\_ (2) a minimum of 15 feet in width for an enclosed drainage system.]

(C) The owner of the property shall dedicate any additional easement or right-of-way that is necessary to allow continuous access for the operation, maintenance, or rehabilitation of a drainage facility.

(D) A part of a lot or tract of land that is located in an easement or right-of-way required by this section may be included as part of the area of the lot or tract of land in the calculation of density or impervious cover.

(E) For property in the full-purpose limits of the city, the director may grant a variance to Subsection (A) if the director determines:

- (1) development with the variance does not result in additional adverse flooding of other property; and

- (2) the development:
  - (a) is permitted by a variance granted under Section 25-7-92(C) (*Encroachments On Floodplain Prohibited*);
  - (b) is permitted in a floodplain under Section 25-7-93 (*General Exceptions*), Section 25-7-94 (*Exceptions in Central Business Area*), Section 25-7-95 (*Exceptions for Parking Areas*), or Section 25-7-96 (*Exceptions in the 25-Year Floodplain*);
  - (c) is not a building or parking area; or
  - (d) is a nonconforming use, as defined by Chapter 25-12, Article 1, Appendix G, Section G102.3 [~~Chapter 59, Section 5903~~] (*Nonconforming Uses*).

**§ 25-7-153 DETENTION BASIN MAINTENANCE AND INSPECTION.**

- (A) In this section:
  - (1) **COMMERCIAL DEVELOPMENT** means all development other than Residential Development.
  - (2) **COMMERCIAL BASIN** means a required detention basin or appurtenance that receives stormwater runoff from a Commercial Development.
  - (3) **DCM STANDARDS** means the provisions in the Drainage Criteria Manual regarding maintenance of a required detention basin or appurtenance.
  - (4) **RESIDENTIAL DEVELOPMENT** means development of two dwelling units or less per lot.
  - (5) **RESIDENTIAL BASIN** means a required detention basin or appurtenance that receives stormwater runoff from a Residential Development.
- (B) The record owner of a commercial development shall maintain the commercial basin serving the commercial development in accordance with the DCM standards, whether or not the commercial basin is located on the same property as the commercial development. The record owner shall provide the City proof of the right to access and maintain the commercial basin if it is not located on the same property as the commercial development.
- (C) If more than one commercial development is served by a single commercial basin, the record owners of the commercial basin and all commercial developments served by the commercial basin shall be jointly and severally responsible for maintenance of the commercial basin in accordance with the DCM standards.
- (D) The director may authorize an alternative arrangement for maintenance of a residential or commercial basin in accordance with the DCM standards. If an alternative arrangement is approved by the director, the city attorney shall determine whether an agreement is necessary; the agreement must be approved by the city attorney and filed of record.
- (E) The City shall inspect each commercial basin at least once every three years to ensure that the commercial basin is being maintained in accordance with the DCM standards. If the commercial basin fails inspection requiring an additional inspection, the director may charge a re-inspection fee.

(F) Until the City accepts a residential basin for maintenance, the record owner(s) of the residential basin and the residential development served shall maintain the residential basin in accordance with the DCM standards.

(G) The City shall be responsible for maintenance of a residential basin only after the residential basin has been accepted for maintenance by the City. The City will accept a residential basin upon determining that it meets all requirements of the Drainage Criteria Manual.

*Draft*