

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE REPEALING AND REPLACING CITY CODE CHAPTERS 25-7 AND 30-4 RELATING TO DRAINAGE; AMENDING SECTIONS OF CITY CODE CHAPTERS 25-8, SUBCHAPTER A AND 30-5, SUBCHAPTER A RELATING TO WATER QUALITY; AMENDING VARIOUS SECTIONS OF CITY CODE TITLE 25 AND TITLE 30 RELATING TO ENVIRONMENTAL PROTECTION; ESTABLISHING A WATER SUPPLY MITIGATION FUND; AND ESTABLISHING A RIPARIAN ZONE MITIGATION FUND.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** City Code Chapter 25-7 (Drainage) is repealed and replaced with a new Chapter 25-7 to read as in the attached and incorporated **EXHIBIT A**.

**PART 2.** City Code Section 25-8-1 (*Definitions*) is amended to read:

**§ 25-8-1 DEFINITIONS.**

In this subchapter:

- (1) BARTON SPRINGS means the springs that comprise the Barton Springs complex associated with Barton Springs Pool, and includes Upper Barton, Old Mill, Eliza, and Parthenia springs.
- (2) BLUFF means ~~[is limited to a bluff with]~~ a vertical change in elevation of more than 40 feet and an average gradient greater than 400 percent.
- (3) ~~[(2)]~~ CANYON RIMROCK means ~~[is limited to a rimrock with]~~ a rock substrate that:
  - (a) has a gradient that exceeds 60 percent for a vertical distance of at least four feet; and
  - (b) is exposed for at least 50 feet horizontally along the rim of the canyon.
- (4) ~~[(3)]~~ COMMERCIAL DEVELOPMENT means all development other than open space and residential development.

(5) CLUSTER HOUSING means a residential housing development that maximizes common open space by grouping housing units to minimize individual yards and has a maximum lot area of fifteen thousand (15,000) square feet for detached residential development.

~~[(4) CREST OF BLUFF is limited to a crest of a bluff that is described in Subsection (1). A crest coincides with a line along the top of a bluff beyond which the average slope has a gradient of not more than 50 percent for a distance of at least 40 feet.]~~

(6)[~~(5)~~] CRITICAL ENVIRONMENTAL FEATURES means [are] features that are of critical importance to the protection of environmental resources, and includes—[include] bluffs, canyon rimrocks, caves, faults and fractures, seeps, sinkholes, springs, and wetlands.

(7) DIRECTOR, when used without a qualifier, means the director of the Planning and Development Review Department, or the director's designee.

(8) EROSION HAZARD ZONE means an area where future stream channel erosion is predicted to result in damage to or loss of property, buildings, infrastructure, utilities, or other valued resources.

~~[(6) IMPERVIOUS COVER means roads, parking areas, buildings, swimming pools, rooftop landscapes and other impermeable construction covering the natural land surface.]~~

(9) [~~(7)~~] FAULTS AND FRACTURES means [is limited to] significant fissures or cracks in rock that may permit infiltration of surface water to underground cavities or channels.

(10) IMPERVIOUS COVER means the total area of any surface that prevents the infiltration of water into the ground, such as roads, parking areas, concrete, and buildings.

(11) MULTI-USE TRAIL means a facility designated for the [shared] use of pedestrians, bicycles, and/or other non-motorized users and associated bridges.

(12) OPEN SPACE means a public or private park, multi-use trail, golf cart path, the portions of a golf course left in a natural state, and an area intended for outdoor activities which does not significantly alter

the existing natural vegetation, drainage patterns, or increase erosion.  
Open Space does not include parking lots.

(13){(8)} OWNER includes a lessee.

(14){(9)} POINT RECHARGE FEATURE means a cave, sinkhole, fault, joint, or other natural feature that lies over the Edwards Aquifer recharge zone and that may transmit a significant amount of surface water into the subsurface strata.

(15){(10)} WATER QUALITY CONTROL means a structure, system, or feature that provides water quality benefits by treating stormwater run-off.

(16){(11)} WETLAND means a transitional land between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water, and conforms to the Army Corps of Engineers' definition.

**PART 3.** City Code Section 25-8-2 (*Description of Regulated Areas*) is amended to read:

**§ 25-8-2 DESCRIPTIONS OF REGULATED AREAS.**

- (A) This section describes the watersheds, aquifers, and water zones that are regulated by this subchapter. A map of these areas is maintained by the Watershed Protection Department and available for inspection at the offices of the Planning [Watershed Protection] and Development Review Department.
- (B) [~~Except as provided in Subsection (C), the~~] The director of the Watershed Protection Department shall determine the boundaries of the areas described in Subsection (D).
- (C) [~~The Council shall determine the boundaries of the Edwards Aquifer recharge zone after receiving a recommendation from the director.~~] For property within 1500 feet of a boundary, the director of the Watershed Protection Department may require that an applicant provide a certified report from a geologist or hydrologist verifying the boundary location.
- (D) In this subchapter:

- (1) BARTON SPRINGS ZONE means the Barton Creek watershed and all watersheds that contribute recharge to Barton Springs, including those portions of the [~~Barton,~~] Williamson, Slaughter, Onion, Bear and Little Bear Creek watersheds located in the Edwards Aquifer recharge or contributing zones.
- (2) BARTON CREEK WATERSHED means the land area that drains to Barton Creek, including Little Barton Creek watershed.
- (3) EDWARDS AQUIFER is the water-bearing substrata that [also known as the Edwards and Associated Limestones Aquifer and] includes the stratigraphic rock units known as the Edwards Group [Formation] and Georgetown Formation.
- (4) EDWARDS AQUIFER CONTRIBUTING ZONE means all land generally to the west and upstream of the Edwards Aquifer recharge zone that provides drainage into the Edwards Aquifer recharge zone.
- (5) EDWARDS AQUIFER RECHARGE ZONE means all land over the Edwards Aquifer that recharges the aquifer, as determined by the surface exposure of the geologic units comprising the Edwards Aquifer, including the areas overlain with quaternary terrace deposits.
- (6) SOUTH EDWARDS AQUIFER RECHARGE ZONE means the portion of the Edwards Aquifer recharge zone that is located south of the Colorado River and north of the Blanco River.
- (7) SUBURBAN WATERSHEDS include all watersheds not otherwise classified as urban, water supply suburban, or water supply rural watersheds, and include:
  - (a) the Brushy, Buttercup, Carson, Cedar, Cottonmouth, Country Club East, Country Club West, Decker, [~~Dry Creek NE,~~] Dry Creek East, Elm Creek, Elm Creek South, Gilleland, Harris Branch, Lake, Lockwood, Maha, Marble, North Fork Dry, Plum [~~Creek~~], Rattan, Rinard, South Boggy, South Fork Dry, South Brushy, Walnut, and Wilbarger creek watersheds;
  - (b) the Colorado River watershed downstream of U.S. 183; and

- (c) those portions of the Onion, Bear, Little Bear, Slaughter, and Williamson creek watersheds not located in the Edwards Aquifer recharge or contributing zones.
- (8) URBAN WATERSHEDS include:
- (a) the Blunn, Buttermilk, ~~East~~ Boggy, East Bouldin, Fort, Harper Branch, Johnson, Little Walnut, Shoal, Tannehill, Waller, and West Bouldin creek watersheds;
  - (b) the north side of the Colorado River watershed from Johnson Creek to U.S. 183; and
  - (c) the south side of the Colorado River watershed from Barton Creek to U.S. 183.
- (9) WATER SUPPLY RURAL WATERSHEDS include:
- (a) the Lake Travis watershed;
  - (b) ~~and~~ the Lake Austin watershed, excluding the Bull Creek watershed and the area to the south of Bull Creek and the east of Lake Austin~~[-];~~ and
  - (c) the Bear West, Bee, Bohl's Hollow, Cedar Hollow, Coldwater, Commons Ford, Connors, Cuernavaca, Harrison Hollow, Hog Pen, Honey, Little Bee, Panther Hollow, Running Deer, St. Stephens, Steiner, and Turkey Creek watersheds.
- (10) WATER SUPPLY SUBURBAN WATERSHEDS include:
- (a) the Bull, Eanes, Dry Creek North, Huck's Slough, Taylor Slough North, Taylor Slough South, and West Bull creek watersheds;
  - (b) the Lady Bird ~~{Town}~~ Lake watershed on the south side of Lady Bird~~{Town}~~ Lake from Barton Creek to Tom Miller Dam;
  - (c) the Lady Bird~~{Town}~~ Lake watershed on the north side of Lady Bird~~{Town}~~ Lake from Johnson Creek to Tom Miller Dam; and

- (d) the [Town] Lake Austin watershed on the east side of Lake Austin from Tom Miller Dam to Bull Creek.

**PART 4.** City Code Section 25-8-23 (*Urban Watershed Exemptions*) is deleted in its entirety; Section 25-8-24 (*Condemnation and Accessibility Exceptions*) is renumbered as 25-8-23; and Section 25-8-25 (*Special Exceptions*) is renumbered as 25-8-24.

**PART 5.** City Code Section 25-8-23 (*Condemnation and Accessibility Exceptions*), Subsection (A) is amended to read:

- (A) This subsection applies to property that has existing development or that is included in an approved site plan if the development on the property is reconfigured as a result of right-of-way condemnation.
- (1) The accountable official may approve the replacement of development that existed in the condemned area of the property onto the remainder of the property.
- (2) For development that may be replaced under Subsection (A) (1), the director of the Watershed Protection Department may vary the requirements of this subchapter for development in the water quality transition zone and the critical water quality zone and the limitations of this subchapter on impervious cover after making a determination that the replacement development will not increase the pollutant loading.

**PART 6.** City Code Section 25-8-24 (*Special Exceptions*) is amended to read:

**§ 25-8-24 [25] SPECIAL EXCEPTIONS; LIMITED ADJUSTMENT.**

- (A) Except as prohibited by Article 13[12] (*Save Our Springs Initiative*), a special exception from the requirements of this subchapter may be granted in accordance with Chapter 25-1 (*General Requirements and Procedures*).
- (B) If a three-quarters majority of the City Council concludes, or a court of competent jurisdiction renders a final judgment concluding that identified sections of this subchapter, as applied to a specific development project or proposal violate the United States Constitution or the Texas Constitution or are inconsistent with federal or state statutes that may preempt a municipal ordinance or the Austin City Charter, the City Council may, after a public hearing, adjust the application of this subchapter to that project to the

minimum extent required to comply with the conflicting law. Any adjustment shall be structured to provide the maximum protection of water quality.

**PART 7.** City Code Section 25-8-26 (*Redevelopment Exception*) is amended to read:

**§ 25-8-25[26] REDEVELOPMENT EXCEPTION IN URBAN AND SUBURBAN WATERSHEDS.**

- (A) This section applies to property located in an urban or suburban watershed that has existing development if:
- (1) no unpermitted development occurred on the site after January 1, 1992, and
  - (2) the property owner files a site plan application and an election for the property to be governed by this section.
- (B) The requirements of this subchapter do not apply to the redevelopment of the property if the redevelopment:
- (1) does not increase the existing amount of impervious cover;
  - (2) provides the level of water quality treatment prescribed by current regulations for the redeveloped area or an equivalent area on the site;
  - (3) does not generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property [on April 17, 2000];
  - (4) is consistent with the neighborhood plan adopted by Council, if any; [and]
  - (5) does not increase non-compliance, if any, with Article 7, Division 1 (Critical Water Quality Zone Restrictions), Section 25-8-281 (Critical Environmental Features), or Section 25-8-282(Wetland Protection; and

(6) does not place redevelopment within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.

~~[for property in the drinking water protection zone, combined with all other redevelopment of the site since April 17, 2000 does not affect more than 25 percent of the site's impervious cover.]~~

(C) The redevelopment must comply with construction phase environmental requirements in effect at the time of construction, including Chapter 25-8, Article 5 (Erosion and Sedimentation Control; Overland Flow).

~~[To the extent of conflict with Article 13[12] (Save Our Springs Initiative), this section controls.]~~

**PART 8.** City Code Section 25-8-27 (*Redevelopment Exception in the Barton Springs Zone*) is amended to read:

**§ 25-8-~~26~~[27] REDEVELOPMENT EXCEPTION IN THE BARTON SPRINGS ZONE.**

(A) This section applies to property located in the Barton Springs Zone that has existing commercial development or existing residential development with greater than two dwelling units per lot ~~[and is located in the Barton Springs Zone]~~ if:

(1) no unpermitted development occurred on the site after January 1, 1992, and

(2) the property owner files a site plan application and an election for the property to be governed by this section.

(B) For property governed by this section, this section supersedes Article 13[12] (*Save Our Springs Initiative*), to the extent of conflict.

~~[(C) — [Development may comply with this section instead of complying with Section 25-8-26 (Redevelopment Exception).]]~~

~~(C)~~~~(D)~~ In this section:

(1) **SEDIMENTATION/FILTRATION POND** means water quality controls that comply with Section 25-8-213 (*Water Quality*)

*Control Standards*) or are approved under Section 25-8-151 (*Innovative Management Practices*); and

(2) SOS POND means water quality controls that comply with all requirements of Section 25-8-213 (*Water Quality Control Standards*) and the pollutant removal requirements of Section 25-8-514(A) (*Pollution Prevention Required*).

(D) [~~(E)~~] The requirements of this subchapter do not apply to the subdivision of property if at the time of redevelopment under this section subdivision and site plan applications are filed concurrently.

(E) [~~(F)~~] The requirements of this subchapter do not apply to the redevelopment of property if the redevelopment meets all of the following conditions:

(1) The redevelopment may not increase the existing amount of impervious cover on the site.

(2) The redevelopment may not increase non-compliance, if any, with Article 7, Division 1 (*Critical Water Quality Zone Restrictions*)[~~Section 25-8-261 (*Critical Water Quality Zone Development*)~~], Section 25-8-281 (*Critical Environmental Features*), Section 25-8-282 (*Wetland Protection*), [~~Section 25-8-482(*Critical Water Quality Zone*)~~] or Section 25-8-482 [~~25-8-483~~](*Water Quality Transition Zone*).

(3) The redevelopment must comply with construction phase environmental requirements in effect at the time of construction, including Chapter 25-8, Article 5 (*Erosion and Sedimentation Control; Overland Flow*) and Section 25-8-234 (*Fiscal Security in the Barton Springs Zone*).

(4) The water quality controls for [~~on~~] the redeveloped areas or an equivalent area on the [~~redevelopment~~] site must provide a level of water quality treatment that is equal to or greater than that which was previously provided.

(5) For a commercial or multifamily redevelopment, the owner or operator must obtain a permit under Section 25-8-233 (*Barton Springs Zone Operating Permit*) for both sedimentation/filtration ponds and SOS ponds.

- (6) For a site with more than 40 percent net site area impervious cover, the redevelopment must have:
- (a) sedimentation/filtration ponds for the redeveloped area or an equivalent area on the [entire] site; or
  - (b) [~~if approved by the director of the Watershed Protection and Development Review Department,~~] SOS ponds for a portion of the site, and sedimentation/filtration ponds for the remainder of the redeveloped area[site] or an equivalent area on the site, as prescribed by the Environmental Criteria Manual.
- (7) For a site with 40 percent or less net site area impervious cover, the redevelopment must have SOS ponds for the redeveloped area or an equivalent area on the [entire] site.
- (8) The property owner must mitigate the effects of the redevelopment, if required by and in accordance with Subsection (H)[(H)].
- (9) Redevelopment may not be located within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.
- (F) [(G)] City Council approval of a redevelopment in accordance with Subsection (G) [(H)] is required if the redevelopment:
- (1) includes more than 25 additional dwelling units;
  - (2) is located outside the City's zoning jurisdiction;
  - (3) is proposed on property with an existing industrial [~~or civic~~] use;
  - (4) is inconsistent with a neighborhood plan; or
  - (5) will generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property.
- (G) [(H)] City Council shall consider the following factors in determining whether to approve a proposed redevelopment:

- (1) benefits of the redevelopment to the community;
- (2) whether the proposed mitigation or manner of development offsets the potential environmental impact of the redevelopment;
- (3) the effects of offsite infrastructure requirements of the redevelopment; and
- (4) compatibility with the City's long-range planning goals.

(H) ~~[(H)]~~ Redevelopment of property under this section requires the purchase or restriction of mitigation land if the site has a sedimentation/filtration pond.

- (1) The combined gross site area impervious cover of the mitigation land and the portion of the redevelopment site treated by sedimentation/filtration ponds may not exceed 20 percent.
- (2) The mitigation requirement may be satisfied by:
  - (a) paying into the Barton Springs Zone Mitigation Fund a non-refundable amount established by ordinance;
  - (b) transferring to the City in accordance with Paragraph (3) mitigation land approved by the director of the Watershed Protection ~~[and Development Review]~~ Department within a watershed that contributes recharge to Barton Springs, either inside or outside the City's jurisdiction;
  - (c) placing restrictions in accordance with Paragraph (3) on mitigation land approved by the director of the Watershed Protection ~~[and Development Review]~~ Department within a watershed that contributes recharge to Barton Springs, either inside or outside the City's jurisdiction; or
  - (d) a combination of the mitigation methods described in Subparagraphs (a) - (c), if approved by the director of the Watershed Protection ~~[and Development Review]~~ Department.
- (3) A person redeveloping under this section shall pay all costs of restricting the mitigation land or transferring the mitigation land to the City, including the costs of:

- (a) an environmental site assessment without any recommendations for further clean-up, certified to the City not earlier than the 120th day before the closing date transferring land to the City;
- (b) a category 1(a) land title survey, certified to the City and the title company not earlier than the 120th day before the closing date transferring land to the City;
- (c) a title commitment with copies of all Schedule B and C documents, and an owner's title policy;
- (d) a fee simple deed, or, for a restriction, a restrictive covenant approved as to form by the City Attorney;
- (e) taxes prorated to the closing date;
- (f) recording fees; and
- (g) charges or fees collected by the title company.

(I) ~~(J)~~ The Watershed Protection ~~[and Development Review]~~ Department shall adopt rules to identify criteria for director approval under this section to ensure that the proposed mitigation, manner of development, and water quality controls offset the potential environmental impact of the redevelopment.

**PART 9.** A new City Code Section 25-8-27 is added to read:

**§ 25-8-27 REDEVELOPMENT EXCEPTION IN THE WATER SUPPLY RURAL AND WATER SUPPLY SUBURBAN WATERSHEDS**

- (A) This section applies to property located in a water supply rural or water supply suburban watershed that has existing commercial development or existing residential development with greater than two dwelling units per lot if:
  - (1) no unpermitted development occurred on the site after January 1, 1992, and

- (2) the property owner files a site plan application and an election for the property to be governed by this section.
- (B) In this section, **SEDIMENTATION/FILTRATION POND** means water quality controls that comply with Section 25-8-213 (*Water Quality Control Standards*) or are approved under Section 25-8-151 (*Innovative Management Practices*)
- (C) The requirements of this subchapter do not apply to the subdivision of property if at the time of redevelopment under this section subdivision and site plan applications are filed concurrently.
- (D) The requirements of this subchapter do not apply to the redevelopment of property if the redevelopment meets all of the following conditions:
- (1) The redevelopment may not increase the existing amount of impervious cover on the site.
  - (2) The redevelopment may not increase non-compliance, if any, with Article 7, Division 1 (*Critical Water Quality Zone Restrictions*), Section 25-8-281 (*Critical Environmental Features*), Section 25-8-282 (*Wetland Protection*), Section 25-8-422 (*Water Quality Transition Zone*), or Section 25-8-452 (*Water Quality Transition Zone*).
  - (3) The redevelopment must comply with construction phase environmental requirements in effect at the time of construction, including Chapter 25-8, Article 5 (*Erosion and Sedimentation Control; Overland Flow*).
  - (4) The water quality controls for the redeveloped areas or an equivalent area on the site must provide a level of water quality treatment that is equal to or greater than that which was previously provided. At a minimum, the site must provide sedimentation/filtration ponds for the redeveloped area or an equivalent area on the site.
  - (5) The property owner must mitigate the effects of the redevelopment, if required by and in accordance with Subsection (G).

- (6) Redevelopment may not be located within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.
- (E) City Council approval of a redevelopment in accordance with Subsection (F) is required if the redevelopment:
  - (1) includes more than 25 additional dwelling units;
  - (2) is located outside the City's zoning jurisdiction;
  - (3) is proposed on property with an existing industrial use;
  - (4) is inconsistent with a neighborhood plan; or
  - (5) will generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property.
- (F) City Council shall consider the following factors in determining whether to approve a proposed redevelopment:
  - (1) benefits of the redevelopment to the community;
  - (2) whether the proposed mitigation or manner of development offsets the potential environmental impact of the redevelopment;
  - (3) the effects of off-site infrastructure requirements of the redevelopment; and
  - (4) compatibility with the City's long-range planning goals.
- (G) Redevelopment of property under this section requires the purchase or restriction of mitigation land.
  - (1) The combined gross site area impervious cover of the mitigation land and the portion of the redevelopment treated by sedimentation/filtration ponds may not exceed 20 percent if in a water supply rural watershed or 40% if in a water supply suburban watershed.
  - (2) The mitigation requirement may be satisfied by:

As passed on 1<sup>st</sup> Reading 10-3-13

- (a) paying into the Water Supply Mitigation Fund a non-refundable amount established by ordinance;
  - (b) transferring to the City in accordance with Paragraph (3) mitigation land approved by the director of the Watershed Protection Department within a water supply rural or water supply suburban watershed, either inside or outside the City's jurisdiction;
  - (c) placing restrictions in accordance with Paragraph (3) on mitigation land approved by the director of the Watershed Protection Department within a water supply rural or water supply suburban watershed, either inside or outside the City's jurisdiction; or
  - (d) a combination of the mitigation methods described in Subparagraphs (a) - (c), if approved by the director of the Watershed Protection Department.
- (3) A person redeveloping under this section shall pay all costs of restricting the mitigation land or transferring the mitigation land to the City, including the costs of:
- (a) an environmental site assessment without any recommendations for further clean-up, certified to the City not earlier than the 120th day before the closing date transferring land to the City;
  - (b) a category 1(a) land title survey, certified to the City and the title company not earlier than the 120th day before the closing date transferring land to the City;
  - (c) a title commitment with copies of all Schedule B and C documents, and an owner's title policy;
  - (d) a fee simple deed, or, for a restriction, a restrictive covenant approved as to form by the City Attorney;
  - (e) taxes prorated to the closing date;
  - (f) recording fees; and

- (g) charges or fees collected by the title company.
- (H) The Watershed Protection Department shall adopt rules to identify criteria for director approval under this section to ensure that the proposed mitigation, manner of development, and water quality controls offset the potential environmental impact of the redevelopment.

**PART 10.** City Code Section 25-8-41 (*Land Use Commission Variances*) of the City Code is amended to read:

**§ 25-8-41 LAND USE COMMISSION VARIANCES.**

- (A) It is the applicant's burden to establish that the findings described in this Section have been met. Except as provided in Subsections (B) and (C), the Land Use Commission may grant a variance from a requirement of this subchapter after determining that:
  - (1) the requirement will deprive the applicant of a privilege or the safety of property given to owners of other similarly situated property with approximately contemporaneous development;
  - (2) the variance:
    - (a) is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;
    - (b) is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property; and
    - (c) does not create a significant probability of harmful environmental consequences; and
  - (3) development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.
- (B) The Land Use Commission may grant a variance from a requirement of [~~Section 25-8-393 (*Water Quality Transition Zone*),~~] Section 25-8-422 [~~25-8-423~~] (*Water Quality Transition Zone*), Section 25-8-452 [~~25-8-453~~]

(*Water Quality Transition Zone*), Section 25-8-482 (*Water Quality Transition Zone*), or Article 7, Division 1 (*Critical Water Quality Zone Restrictions*) after determining that:

- (1) the criteria for granting a variance in Subsection (A) are met;
  - (2) the requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and
  - (3) the variance is the minimum change necessary to allow a reasonable, economic use of the entire property.
- (C) The Land Use Commission may not grant a variance from a requirement of Article 13~~[42]~~ (*Save Our Springs Initiative*).
- (D) The Land Use Commission shall prepare written findings of fact to support the grant or denial of a variance request under this section.

**PART 11.** City Code Section 25-8-42 (*Administrative Variances*) is amended to read:

**§ 25-8-42 ADMINISTRATIVE VARIANCES.**

- (A) A variance under this section may not vary the requirements of Article 13 ~~[42]~~ (*Save Our Springs Initiative*) and may not be granted for development of a property if any portion of the property abuts or is within 500 feet of the shoreline of Lake Austin, measured horizontally.
- (B) The director of the Watershed Protection Department may grant a variance from a requirement of:
- (1) Section 25-8-261 (*Critical Water Quality Zone Development*), only if:
    - (a) necessary to protect public health and safety, or if it would provide a significant, demonstrable environmental benefit, as determined by a functional assessment of floodplain health as prescribed by the Environmental Criteria Manual,
    - (b) necessary to allow an athletic field in existence on {the effective date of this ordinance} to be maintained, improved, or replaced,

- (c) necessary to allow an athletic field to be located in an area not otherwise allowed under Section 25-8-261 (B) (5), or
  - (d) necessary to allow a hard surfaced trail to be located in an area not otherwise allowed under Section 25-8-261(B) (3);
- (2) Section 25-8-261 (Critical Water Quality Zone Development), for development within an urban watershed, only if the proposed development:
- (a) is located not less than 25 feet from the centerline of a waterway,
  - (b) is located outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.,
  - (c) does not increase non-compliance, if any, with Article 7, Division 1 (Critical Water Quality Zone Restrictions), Section 25-8-281 (Critical Environmental Features) or Section 25-8-282 (Wetland Protection), and
  - (d) restores native vegetation and soils if development removed from the Critical Water Quality Zone;
- (3) Subsection 25-8-262 (B) (Critical Water Quality Zone Street Crossings), only outside the Barton Springs Zone;
- (4) Section 25-8-281 (Critical Environmental Features);  
[~~Subsection 25-8-423(C) (Water Quality Transition Zone);~~]
- (5)[~~(2)~~] Section 25-8-322 (Clearing for a Roadway);  
[~~(3) Subsection 25-8-343(A) (Spoil Disposal);~~]  
[~~(4) Article 7, Division 1 (Critical Water Quality Zone Restrictions)~~]
- (6)[~~(5)~~] Section 25-8-341 (Cut Requirements) or Section 25-8-342 (Fill Requirements), for a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms; [∅]

(7)~~(6)~~ Section 25-8-341 (*Cut Requirements*) or Section 25-8-342 (*Fill Requirements*), for a cut or fill of not more than eight feet in the desired development zone [-];

(8) Subsection 25-8-343(A) (*Spoil Disposal*);

(9) Section 25-8-365 (*Interbasin Diversion*).

(C) It is the applicant's burden to establish that the findings described in this Section have been met.

(D) The director of the Watershed Protection Department may grant a variance described in Subsection (B) only after determining that~~[-(1)]~~ development in accordance with the variance meets the objective of the requirement for which the variance is requested~~[;]~~ and:

(1) ~~(2)~~ for property in the Barton Springs Zone, the variance will result in water quality that is at least equal to the water quality achievable without the variance; ~~and]~~

(2) for a variance from Section 25-8-261 (B) (5), that the proposed work on or placement of the athletic field will have no adverse environmental impacts.

(3) for a variance from Section 25-8-281, that the proposed measures preserve all characteristics of the critical environmental feature;

(4) for a variance from Section 25-8-341 or Section 25-8-342 [~~described in Paragraph (B) (6)~~], the cut or fill is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway; [-]

(5) for a variance from Section 25-8-343 (A), use of the spoil provides a necessary public benefit. Necessary public benefits include:

(a) roadways;

(b) stormwater detention facilities;

(c) public or private park sites; and

(d) building sites that comply with Section 25-8-341 (Cut Requirements), Section 25-8-342 (Fill Requirements), and Chapter 25-7 (Drainage); and

(6) for a variance from Section 25-8-365, there are no adverse environmental or drainage impacts.

(E) [~~D~~] The Watershed Protection Department director shall prepare written findings to support the grant or denial of a variance request under this section.

**PART 12.** City Code Section 25-8-62 (*Net Site Area*) is amended to add a new Subsection (C) to read:

(C) Net site area does not apply in the urban or suburban watersheds.

**PART 13.** City Code Section 25-8-63 (*Impervious Cover Calculations*) is amended to read:

**§ 25-8-63 IMPERVIOUS COVER CALCULATIONS.**

(A) Impervious cover is calculated in accordance with this Section and the Environmental Criteria Manual.

(B) Impervious cover calculations include:

(1) roads;

(2) driveways;

(3) parking areas;

(4) buildings;

(5) concrete;

(6) impermeable construction covering the natural land surface;

(7) for an uncovered wood deck that has drainage spaces between the deck boards and that is located over a pervious surface, 50 percent of the horizontal area of the deck; and

- (8) [~~interlocking or permeable pavers, except up to 20 percent of the area of the pavers may be excluded in calculating impervious cover if the pavers are ]approved by the director for recharge enhancement under Section 25-8-151 (Innovative Management Practices); and~~  
(9) ~~]~~the portion of a site used for the storage of scrap and metal salvage, including auto salvage.

(C) Impervious cover calculations exclude:

- (1) sidewalks in a public right-of-way or public easement;
- (2) multi-use trails open to the public and located on public land or in a public easement;
- (3) water quality controls, excluding subsurface water quality controls;
- (4) detention basins, excluding subsurface detention basins;
- (5)~~(3)~~ drainage swales and conveyances;
- (6)~~(4)~~ ponds, pools, and fountains; ~~[and]~~
- (7)~~(5)~~ areas with gravel placed over pervious surfaces that are used only for landscaping or by pedestrians and are not constructed with compacted base;
- (8) porous pavement designed in accordance with the Environmental Criteria Manual, limited to only pedestrian walkways and multi-use trails, and located outside the Edwards Aquifer Recharge Zone;
- (9) fire lanes designed as prescribed by the Environmental Criteria Manual, that consist of interlocking pavers, and are restricted from routine vehicle access; and
- (10) a subsurface portion of a parking structure if the director of the Watershed Protection Department determines that:
  - (a) the subsurface portion of the structure:
    - (i) is located within an urban or suburban watershed;

- (ii) is below the grade of the land that existed before construction of the structure;
- (iii) is covered by soil with a minimum depth of two feet and an average depth of not less than four feet; and
- (iv) has an area not greater than fifteen percent of the site;
- (b) the structure is not associated with a use regulated by Section 1.2.2 of Subchapter F of Chapter 25-2 (*Residential Design and Compatibility Standards*);
- (c) the applicant submits an assessment of the presence and depth of groundwater at the site sufficient to determine whether groundwater will need to be discharged or impounded; and
- (d) the applicant submits documentation that the discharge or impoundment of groundwater from the structure, if any, will be managed to avoid adverse effects on public health and safety, the environment, and adjacent property.

~~[(D) Chapter 25-2, Subchapter E, Section 2.3.1.B. 1.e. (Impervious Cover Credit) provides for certain exclusions from impervious cover calculations for large development sites outside the Barton Springs Zone.]~~

**PART 14.** City Code Section 25-8-65 (*Roadways*) is deleted in its entirety.

**PART 15.** A new City Code Section 25-8-65 is added to read:

**§ 25-8-65 COMMERCIAL IMPERVIOUS COVER**

- (A) This section applies to impervious cover calculations for commercial developments.
- (B) An application for a commercial development must demonstrate that once fully constructed, the development will not exceed applicable maximum impervious cover limitations.
- (C) Subsection (B) does not apply to an application for a commercial site development, including a roadway project, which will not exceed 5,000 square feet of new impervious cover. For the purposes of this Section,

roadway improvements are limited to intersection upgrades, low-water crossing upgrades, additions for bicycle lanes, and additions for mass transit stops.

**PART 16.** City Code Section 25-8-91 (*Waterway Classifications*) is amended to read:

**§ 25-8-91 WATERWAY CLASSIFICATIONS.**

- (A) This section classifies the [significant] waterways [in each watershed] according to drainage area.
  - (B) In all watersheds except urban [a suburban watershed]:
    - (1) a minor waterway has a drainage area of at least 64[320] acres and not more than 320[640] acres;
    - (2) an intermediate waterway has a drainage area of more than 320[640] acres and not more than 640[1280] acres; and
    - (3) a major waterway has a drainage area of more than 640[1280] acres.
  - ~~[(C) In a water supply suburban watershed:
    - (1) a minor waterway has a drainage area of at least 128 acres and not more than 320 acres;
    - (2) an intermediate waterway has a drainage area of more than 320 acres and not more than 640 acres; and
    - (3) a major waterway has a drainage area of more than 640 acres.~~
  - ~~(D) In a water supply rural watershed:
    - (1) a minor waterway has a drainage area of at least 64 acres and not more than 320 acres;
    - (2) an intermediate waterway has a drainage area of more than 320 acres and not more than 640 acres; and
    - (3) a waterway has a drainage area of more than 640 acres.~~
  - ~~(E) In the Barton Springs Zone:
    - (1) for the Barton Creek, Bear Creek, Little Barton Creek, Little Bear Creek, and Onion Creek watersheds:
      - (a) a minor waterway has a drainage area of at least 64 acres and not more than 320 acres;
      - (b) an intermediate waterway has a drainage area of more than 320 acres and not more than 640 acres; and
      - (c) a major waterway has a drainage area of more than 640 acres;~~
- and

- ~~\_\_\_\_\_ (2) for the Slaughter Creek and Williamson Creek watersheds:~~  
~~\_\_\_\_\_ (a) a minor waterway has a drainage area of at least 128 acres and not more than 320 acres;~~  
~~\_\_\_\_\_ (b) an intermediate waterway has a drainage area of more than 320 acres and not more than 640 acres; and~~  
~~\_\_\_\_\_ (c) a major waterway has a drainage area of more than 640 acres.]~~

**PART 17.** City Code Section 25-8-92 (*Critical Water Quality Zones Established*) is amended to read:

**§ 25-8-92 CRITICAL WATER QUALITY ZONES ESTABLISHED.**

- (A) In the water supply rural watersheds, water supply suburban watersheds, and Barton Springs zone, a [A] critical water quality zone is established along each waterway classified under Section 25-8-91 (*Waterway Classifications*).
- (1) The boundaries of a critical water quality zone coincide with the boundaries of the 100 year flood plain calculated under fully developed conditions as prescribed by the Drainage Criteria Manual, except:
- (a) for a minor waterway, the boundaries of the critical water quality zone are located not less than 50 feet and not more than 100 feet from the centerline of the waterway;
- (b) for an intermediate waterway, the boundaries of the critical water quality zone are located not less than 100 feet and not more than 200 feet from the centerline of the waterway;
- (c) for a major waterway, the boundaries of the critical water quality zone are located not less than 200 feet and not more than 400 feet from the centerline of the waterway; and
- (d) for the main channel of Barton Creek, the boundaries of the critical water quality zone are located 400 feet from the centerline of the creek.
- (2) Notwithstanding the provisions of Subsections (A) (1) (a), (b), and (c), a critical water quality zone does not apply to a previously modified drainage feature serving a public roadway right of way that

does not possess any natural and traditional character and cannot reasonably be restored to a natural condition [extend beyond the crest of a bluff].

- (B) In the suburban watersheds, a critical water quality zone is established along each waterway classified under Section 25-8-91 (*Waterway Classifications*).
- (1) for a minor waterway, the boundaries of the critical water quality zone are located 100 feet from the centerline of the waterway;
  - (2) for an intermediate waterway, the boundaries of the critical water quality zone are located 200 feet from the centerline of the waterway; and
  - (3) for a major waterway, the boundaries of the critical water quality zone are located 300 feet from the centerline of the waterway;
  - (4) The critical water quality zone boundaries may be reduced to not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway if the overall surface area of the critical water quality zone is the same or greater than the surface area that would be provided without the reduction, as prescribed in the Environmental Criteria Manual.
  - (5) Notwithstanding the provisions of Subsections (B) (1), (2), and (3), a critical water quality zone does not apply to a previously modified drainage feature serving a public roadway right of way that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition.
- (C) Critical water quality zones are established to include the inundated areas that constitute Lake Walter E. Long, Lake Austin, Lady Bird Lake, and the Colorado River downstream of Lady Bird Lake.
- (D)[(C)] Critical water quality zones are established along and parallel to the shorelines of Lake Travis, Lake Austin, and Lady Bird[~~Town~~] Lake.
- (1) The shoreline boundary of a critical water quality zone:
    - (a) for Lake Travis, coincides with the 681.0 foot contour line;

- (b) for Lake Austin, coincides with the 492.8 foot contour line; and
- (c) for Lady Bird~~[Town]~~ Lake, coincides with the 429.0 foot contour line.

(2) The width of a critical water quality zone, measured horizontally inland, is:

- (a) 100 feet; or
- (b) for a detached single-family residential use, 75 feet.

~~(E)~~~~(D)~~ Critical water quality zones are established along and parallel to the shorelines of the Colorado River downstream of Lady Bird~~[Town]~~ Lake.

- (1) The shoreline boundary of a critical water quality zone coincides with the river's ordinary high water mark, as defined by Code of Federal Regulations Title 33, Section 328.3 (Definitions).
- (2) The inland boundary of a critical water quality zone coincides with the boundary of the 100-year floodplain as delineated by the Federal Emergency Management Agency, except that the width of the critical water quality zone, measured horizontally inland, is not less than 200 feet and not more than 400 feet.

~~(F)~~~~(E)~~ In an urban watershed, a critical water quality zone is established along each waterway with a drainage area of at least 64 acres. This does not apply in the area bounded by IH-35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.

- (1) The boundaries of the critical water quality zone coincide with the boundaries of the 100 year floodplain calculated under fully developed conditions as prescribed by the Drainage Criteria Manual; provided that the boundary is not less than 50 feet and not more than 400 feet from the centerline of the waterway.
- (2) Notwithstanding the provisions of Subsection (F) (1), a critical water quality zone does not apply to a previously modified drainage feature serving a public roadway right of way that does not possess any

natural and traditional character and cannot reasonably be restored to a natural condition.

- (2) ~~Except as limited by Paragraph (3), for a waterway whose 100-year flood plain has not been delineated by FEMA:~~
- (a) ~~the boundaries of a critical water quality zone are located 100 feet from the centerline of the waterway; or~~
  - (b) ~~if the applicant has calculated the 100-year flood plain for the waterway and the City has approved the calculations, the boundaries of the critical water quality zone coincide with the boundaries of the calculated floodplain.~~
- (3) ~~The boundaries of a critical water quality zone are located not less than 50 feet and not more than 400 feet from the centerline of the waterway.]~~

**PART 18.** City Code Section 25-8-93 (*Water Quality Transition Zones Established*) Subsection (A) is amended to read:

- (A) In the water supply rural watersheds, water supply suburban watersheds, and in the Barton Springs zone, excluding [Except for] Lake Austin, Lake Travis, and Lady Bird [Town] Lake, a water quality transition zone is established adjacent and parallel to the outer boundary of each critical water quality zone.

**PART 19.** The title of City Code Chapter 25-8, Subchapter A, Article 3 is amended to read:

**ARTICLE 3. ENVIRONMENTAL RESOURCE INVENTORY  
[ASSESSMENT]; POLLUTANT ATTENUATION PLAN.**

**PART 20.** City Code Section 25-8-121 (*Environmental Assessment Requirement*) is amended to read:

**§ 25-8-121 ENVIRONMENTAL RESOURCE INVENTORY[ASSESSMENT]  
REQUIREMENT.**

- (A) An applicant shall file an environmental resource inventory[assessment] with the director for proposed development located:
- (1) over a karst aquifer;
  - (2) within an area draining to a karst aquifer or reservoir;

- (3) in a water quality transition zone;
  - (4) in a critical water quality zone;
  - (5) in a floodplain~~[flood plain]~~; or
  - (6) on a tract with a gradient of more than 15 percent.
- (B) An environmental resource inventory~~[assessment]~~ must:
- (1) identify critical environmental features and propose protection measures for the features;
  - (2) provide an environmental justification for spoil disposal locations or roadway alignments;
  - (3) propose methods to achieve overland flow~~[and justify enclosed storm sewers; and]~~
  - (4) describe proposed industrial uses and the pollution abatement program; and
  - (5) be completed as prescribed by the Environmental Criteria Manual.
- (C) An environmental resource inventory~~[assessment]~~ must include:
- (1) a hydrogeologic report in accordance with Section 25-8-122 (*Hydrogeologic Report*);
  - (2) a vegetation report in accordance with Section 25-8-123 (*Vegetation Report*); and
  - (3) a wastewater report in accordance with Section 25-8-124 (*Wastewater Report*).
- (D) The director of the Watershed Protection Department may permit an applicant to exclude from an environmental resource inventory ~~[assessment]~~ information required by this section after determining that the information is unnecessary because of the scope and nature of the proposed development.

**PART 21.** City Code Section 25-8-122 (*Hydrogeologic Report*) is amended to read:

**§ 25-8-122 HYDROGEOLOGIC REPORT.**

A hydrogeologic report must:

- (1) generally describe the topography, soils, and geology of the site;
- (2) identify springs and significant point recharge features on the site; ~~[and]~~
- (3) demonstrate that proposed drainage patterns will protect the quality and quantity of recharge at significant point recharge features; and [-]
- (4) identify all recorded and unrecorded water wells, both on the site and within 150 feet of the boundary of the site.

**PART 22.** City Code Section 25-8-125 (*Pollutant Attenuation Plan*) is amended to read:

**§ 25-8-125 POLLUTANT ATTENUATION PLAN.**

An applicant proposing an industrial use that is not completely enclosed in a building shall provide a pollutant attenuation plan in accordance with the ~~[Administrative and the]~~ Environmental Criteria Manual~~[Manuals]~~.

**PART 23.** City Code Section 25-8-151 (*Innovative Management Practices*) is amended to read:

**§ 25-8-151 INNOVATIVE MANAGEMENT PRACTICES.**

- (A) An innovative water quality control is a practice that is not specifically prescribed in the Environmental Criteria Manual, but is designed to address the requirements of Article 6 (Water Quality Controls).
- (B) An innovative runoff management practice is a practice that is designed to address the requirements of ~~[-Article 6 (Water Quality Controls) and]~~ Section 25-8-281 (*Critical Environmental Features*), enhance the recharge of groundwater and the discharge of springs, and maintain the function of critical environmental features. ~~[-The City encourages innovative management practices.]~~

(C) [(B)] A proposal for an[An] innovative water quality control or runoff management [~~proposal~~]practice must be reviewed and approved by the Watershed Protection [~~and Development Review~~] Department. Review and approval is based on:

- (1) technical merit;
- (2) compliance with the requirements of this title for water quality protection and improvement;
- (3) resource protection and improvement;
- (4) advantages over standard practices; and
- (5) anticipated maintenance requirements.

**PART 24.** City Code Section 25-8-182 (*Development Completion*) Subsection (A) is amended to read:

- (A) Development is not completed until:
- (1) permanent revegetation is established; and
  - (2) the Planning [~~Watershed Protection~~]and Development Review Department:
    - (a) receives the engineer's concurrence letter; and
    - (b) certifies installation of the vegetation for acceptance.

**PART 25.** City Code Section 25-8-183 (*Modification of Erosion Control and Construction Sequencing Plans*) is amended to read:

**§ 25-8-183 MODIFICATION OF EROSION CONTROL AND CONSTRUCTION SEQUENCING PLANS.**

A City inspector may modify an erosion control plan or construction sequencing plan in the field:

- (1) without notice to the permit holder, if the modification is a minor change to upgrade erosion controls or reflect construction progress; and