

## Draft 3 Code Excerpts

1. Drainage
2. Water Quality
3. Residential Development (formerly "Residential Heavy")
4. Urban Forest Protection and Replenishment
5. Landscape (Code & Functional Green Overview)
6. Civic Open Space
7. Conservation Land, Park, and PUD Zones
8. Parkland Dedication

# Drainage

**KEY**

Green text = new or modified language for Draft 2.

Purple text = new or modified language for Draft 3.

# Article 23-10E: Drainage

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## Contents

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### Division 23-10E-1: General Provisions

- 23-10E-1010 Purpose
- 23-10E-1020 Applicability
- 23-10E-1030 Residential Development
- 23-10E-1040 Review Authority
- 23-10E-1050 Obstruction of Waterways Prohibited
- 23-10E-1060 Duty to Maintain Unobstructed Waterways
- 23-10E-1070 Standing Water Declared a Nuisance
- 23-10E-1080 Computation of Stormwater Runoff



### Division 23-10E-2: Drainage Studies; Erosion Hazard Analysis; Floodplain Delineation

- 23-10E-2010 Director Authorized to Require Drainage Studies
- 23-10E-2020 Director Authorized to Require Erosion Hazard Zone Analysis
- 23-10E-2030 Floodplain Maps, Delineation, and Depiction

### Division 23-10E-3: Standards for Approval

- 23-10E-3010 Criteria for Approval of Development Applications
- 23-10E-3020 Regional Stormwater Management Program
- 23-10E-3030 Engineer's Certification Required for Certain Alterations and Improvements
- 23-10E-3040 Approval of Certain Permits and Certificates
- 23-10E-3050 Design and Construction of Drainage Facilities and Improvements
- 23-10E-3060 Enclosed Storm Drains, Bridges, and Culverts



### Division 23-10E-4: Special Standards in Zoning Jurisdiction

- 23-10E-4010 Applicability of Division
- 23-10E-4020 Encroachment on Floodplain Prohibited
- 23-10E-4030 General Exceptions
- 23-10E-4040 Standards in Central Business Area
- 23-10E-4050 Standards for Parking Areas
- 23-10E-4060 Standards in the 25-Year Floodplain

### Division 23-10E-5: Responsibilities of Applicant or Owner

- 23-10E-5010 Stormwater Conveyance and Drainage Facilities
- 23-10E-5020 Dedication of Easements and Rights-of-Way
- 23-10E-5030 Detention Basin Maintenance and Inspection

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# Division 23-10E-1: General Provisions

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## Contents

- 23-10E-1010 Purpose ..... 1
- 23-10E-1020 Applicability ..... 1
- 23-10E-1030 Residential Development ..... 1
- 23-10E-1040 Review Authority ..... 2
- 23-10E-1050 Obstruction of Waterways Prohibited ..... 2
- 23-10E-1060 Duty to Maintain Unobstructed Waterways ..... 2
- 23-10E-1070 Standing Water Declared a Nuisance ..... 2

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### 23-10E-1010 Purpose

Austin’s unique combination of intense rainstorms, steep slopes, and slow-draining soils makes it especially prone to severe flooding conditions. On undeveloped land, stormwater runoff is dispersed across the landscape, where it is slowed and absorbed by vegetation, soil, wetlands, and uneven terrain, especially along a waterway’s natural banks and floodplains. When development increases impervious cover, removes these natural features, and pipes or channelizes stormwater flows, the land loses this natural storage capacity. Stormwater runoff travels more quickly into receiving streams, rivers, and storm drains, leading to increased flooding and erosion. Development within the floodplain or erosion hazard zone has the potential for placing people, property, and infrastructure at risk. Drainage regulations ensure the health, safety, and welfare of the public and property through management of stormwater, preservation of waterways, and control of soil erosion.

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### 23-10E-1020 Applicability

- (A) Except as provided in Subsection (B), this article applies in the planning jurisdiction.
- (B) For a preliminary plan, final plat, or subdivision construction plan in the portion of the City’s extraterritorial jurisdiction that is within Travis County:
  - (1) This article does not apply; and
  - (2) Title 30 (Austin/Travis County Subdivision Regulations) governs.



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### 23-10E-1030 Residential Development

Applications to develop from one to six residential units are subject to the requirements of this article identified in Division 23-2A-3 (Residential Development Regulations).

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**23-10E-1040 Review Authority**

Authority and responsibility for implementing this division is delegated to the Watershed Director, which is referred to in this division as “the director.” However, the city manager may from time to time delegate particular functions under this division to one or more other City departments, which shall control over the general delegation in this subsection.

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**23-10E-1050 Obstruction of Waterways Prohibited**

Unless authorized by a development application approved **under** Title 23, a person may not place, or cause to be placed, an obstruction in a waterway.

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**23-10E-1060 Duty to Maintain Unobstructed Waterways**

The person in control of real property traversed by a waterway **must** keep the waterway free from an obstruction that is not authorized by a development application approved **under** Title 23.

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**23-10E-1070 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.

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**23-10E-1080 Computation of Stormwater Runoff**

Stormwater runoff must be computed on the basis of a fully developed contributing drainage area or watershed as determined in compliance with the Drainage Criteria Manual.

# Division 23-10E-2: Drainage Studies; Erosion Hazard Analysis; Floodplain Delineation

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## Contents

23-10E-2010	Director Authorized to Require Drainage Studies . . . . .	1
23-10E-2020	Director Authorized to Require Erosion Hazard Zone Analysis . . . . .	1
23-10E-2030	Floodplain Maps, Delineation, and Depiction. . . . .	1

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### 23-10E-2010 Director Authorized to Require Drainage Studies

- (A) The director may require the applicant to provide, at the applicant’s expense and as a condition for development application approval, a drainage study for the total area to be ultimately developed.
- (B) The drainage study must be in compliance with the Drainage Criteria Manual.
- (C) If a drainage study is required by this section, the City may not accept a development application for review for any portion of the proposed development until the director has received the required drainage study.

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### 23-10E-2020 Director Authorized to Require Erosion Hazard Zone Analysis

- (A) The director may require the applicant to provide, at the applicant’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 creek with a drainage area of 64 acres or greater;
  - (2) Within 100 feet of the ordinary high water mark of the Colorado River downstream from Longhorn Dam, as defined by Code of Federal Regulations Title 33, Section 328.3 (Definitions); or
  - (3) Located where significant erosion is present.
- (B) The erosion hazard zone analysis must be in compliance with the Drainage Criteria Manual.
- (C) If an erosion hazard zone analysis is required by this section, the City may not accept a development application for review for any portion of the proposed development until the director has received the required erosion hazard zone analysis.

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### 23-10E-2030 Floodplain Maps, Delineation, and Depiction

- (A) The director shall designate and maintain official floodplain maps.
- (B) If an official floodplain map is not delineated, the applicant must calculate the boundaries of the 100-year floodplain in compliance with the Drainage Criteria Manual and submit the calculation to the director for approval.

- (C) If the **director** determines that FEMA regulations require a **request** to FEMA for a flood insurance rate map revision, the **director** may require the **applicant** to submit the revision request to FEMA.
- (D) The applicant **must** 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;
  - (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) If a portion of a FEMA floodplain is outside a drainage easement, the applicant **must**, 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.

# Division 23-10E-3: Standards for Approval

## Contents

- 23-10E-3010 Criteria for Approval of Development Applications. . . . . 1
- 23-10E-3020 Regional Stormwater Management Program. . . . . 2
- 23-10E-3030 Engineer’s Certification Required for Certain Alterations and Improvements. . . . . 2
- 23-10E-3040 Approval of Certain Permits and Certificates. . . . . 2
- 23-10E-3050 Design and Construction of Drainage Facilities and Improvements . . . . . 2
- 23-10E-3060 Enclosed Storm Drains, Bridges, and Culverts . . . . . 3

## 23-10E-3010 Criteria for Approval of Development Applications

- (A) A development application may not be approved unless:
  - (1) The proposed development application demonstrates sufficient capacity for the design flood, as determined in compliance with 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 stormwater 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 in compliance with the Environmental Criteria Manual; and
  - (5) The proposed development:
    - (a) Will not result in additional adverse flooding impact on other property compared to the conditions at the time of application;
    - (b) Notwithstanding the requirements of (5)(a), will be designed such that proposed post-development peak runoff conditions do not exceed undeveloped peak runoff conditions;
    - (c) Preserves the natural and traditional character of the land and the waterway located within the 100-year floodplain in compliance with 23-3D-4060 (Floodplain Modification);
    - (d) Except as provided by Subsection (B), includes on-site control of the stream protection volume, as determined in compliance with the Drainage Criteria Manual and the Environmental Criteria Manual;
    - (e) Will not result in erosion impacts on other property; and
    - (f) Locates all proposed improvements outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.
- (B) A proposed development may provide off-site control of the stream protection volume, if the off-site control will not cause:



- (1) An adverse water quality impact from increased in-stream peak flow; or
- (2) Increased channel erosion.



### 23-10E-3020 Regional Stormwater Management Program

- (A) The director may approve participation in the Regional Stormwater Management Program as prescribed in the Drainage Criteria Manual if the site can demonstrate:
  - (1) No additional adverse impact from flood or erosion potential; and
  - (2) Adequate downstream flood conveyance capacity.
- (B) Regional Stormwater Management Program participation, if approved by the director, shall be based on the difference between undeveloped and post-development conditions.

### 23-10E-3030 Engineer's Certification 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 an 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 an engineer.

### 23-10E-3040 Approval of Certain Permits and Certificates

If a development application 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 Development Services Director approves the issuance.

### 23-10E-3050 Design and Construction of Drainage Facilities and Improvements

- (A) The design and construction of a drainage facility or improvement must:
  - (1) Be in compliance with the Drainage Criteria Manual; and
  - (2) Provide for maintenance and protection from erosion in compliance with the Environmental Criteria Manual.

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**23-10E-3060 Enclosed Storm Drains, Bridges, and Culverts**

- (A) The **Development Services** Director shall **review and** approve the plans and specifications for a storm drain, bridge, or culvert.
- (B) The City may inspect the construction of each storm drain, bridge, or culvert.

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# Division 23-10E-4: Special Standards in Zoning Jurisdiction

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## Contents

23-10E-4010	Applicability of Division . . . . .	1
23-10E-4020	Encroachment on Floodplain Prohibited. . . . .	1
23-10E-4030	General Exceptions . . . . .	2
23-10E-4040	Standards in Central Business Area . . . . .	2
23-10E-4050	Standards for Parking Areas . . . . .	3
23-10E-4060	Standards in the 25-Year Floodplain . . . . .	3

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## 23-10E-4010 Applicability of Division

This **division** applies in the zoning jurisdiction.

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## 23-10E-4020 Encroachment on Floodplain Prohibited

- (A) Except as provided in Section 23-10E-4060 (Standards in the 25-Year Floodplain), a development application may not be approved if a proposed building or parking area encroaches on the 25-year floodplain.
- (B) Except as provided in Sections 23-10E-4030 (General Exceptions), 23-10E-4040 (Standards in Central Business Area), and 23-10E-4050 (Standards for Parking Areas), a development application may not be approved if a proposed building or parking area encroaches on the 100-year floodplain.
- (C) The **director** may grant a variance to Subsection (A) or (B) if the **director** determines that:
  - (1) **The** finished floor elevation of a proposed building is at least two feet above the 100-year floodplain;
  - (2) **Normal** access to a proposed building is by direct connection with an area above the regulatory flood datum, as prescribed in Division 23-11B-1 (Building Code);
  - (3) **A** proposed building complies with the standards in Division 23-11B-1, Appendix G (Flood Resistant Construction) and Section 1612 (Flood Loads);
  - (4) **The** development compensates for the floodplain volume displaced by the development;
  - (5) **The** development improves the drainage system by exceeding the standards of Section 23-10E-3010 (Criteria for Approval of Development Applications), as demonstrated by a report provided by the applicant and certified by an engineer;
  - (6) **The** variance is required by unique site conditions; and
  - (7) **Development** allowed by the variance does not result in additional adverse flooding impact on other property.
- (D) The **director** shall prepare written findings to support the grant or denial of a variance request **under** this **section**.

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**23-10E-4030 General Exceptions**

- (A) A development application 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 standards 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; or
  - (3) A building authorized by a waterway development permit issued in compliance with Chapter 9-10 before September 25, 1983.
- (B) A development application that may be approved **under** this **section** must:
  - (1) **Comply** with the flood proofing standards of Division 23-11B-1 (Building Code); and
  - (2) **Result** in no additional adverse flooding impact on other properties, as determined by the **director**.

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**23-10E-4040 Standards in Central Business Area**

- (A) This **section** establishes standards that apply 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 with a proposed building or parking area that encroaches on the 100-year floodplain 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 Division 23-11B-1 (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 an engineer that the construction of the building and development activities associated with that building improves the drainage system by exceeding the minimum standards of Sections 23-10E-1030 (Obstruction of Waterways Prohibited), 23-10E-1040 (Duty to Maintain Unobstructed Waterways), and 23-10E-1050 (Standing Water Declared a Nuisance).
- (D) The **director** may waive a standard of Subsection (C) if:

- (1) The applicant submits:
    - (a) A written request identifying the standard to be waived; and
    - (b) A justification for the waiver prepared by an engineer certifying that waiving the standard 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 standards of Subsection (C); and
    - (c) Waiving the standard will not result in additional adverse flooding of other property.
- (E) A development application that may be approved under this section must comply with the flood proofing standards of Division 23-11B-1 (Building Code).

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### 23-10E-4050 Standards for Parking Areas

- (A) This section establishes standards that apply to the development of a parking area.
- (B) A development application with a proposed parking area that encroaches on the 100-year floodplain may be approved if:
  - (1) The level of water detention or water flow 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 water flow in the parking lot may exceed a depth of eight inches.
- (C) Notwithstanding the standards of Subsection (B), a development application 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 Lake; or
    - (b) The Colorado River downstream from Longhorn Dam.

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### 23-10E-4060 Standards in the 25-Year Floodplain

- (A) This section establishes standards that apply to development in the 25-year floodplain.
- (B) A development application 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 either:
    - (a) A restroom or bath facility, concession stand, tool shed, or pump house, with an area of less than 1,000 square feet; or
    - (b) A dock that is located in the 25-year floodplain of Lady Bird Lake, Lake Walter E. Long, or Lake Austin and constructed, or proposed to be constructed, in compliance with the standards of this Title;
  - (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 additional adverse flooding impact on other properties; and
    - (b) Otherwise complies with the standards of this Title.
- (C) A development application approved under this section must comply with the flood proofing standards of Division 23-11B-1 (Building Code).

# Division 23-10E-5: Responsibilities of Applicant or Owner

## Contents

23-10E-5010 Stormwater Conveyance and Drainage Facilities . . . . . 1  
23-10E-5020 Dedication of Easements and Rights-of-Way . . . . . 1  
23-10E-5030 Detention Basin Maintenance and Inspection . . . . . 2

### 23-10E-5010 Stormwater Conveyance and Drainage Facilities

- (A) The applicant 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 must be accounted for as determined in compliance with 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 applicant 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 applicant 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 applicant 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 applicant **must** provide adequate off-site drainage improvements to accommodate the full effects of the development. The City may assist the applicant in the acquisition of an interest in property necessary to provide an off-site improvement, if the applicant:
  - (1) **Certifies by affidavit** that a bona fide attempt to provide the off-site drainage improvements has not been successful; and
  - (2) **Provides** an adequate guarantee that the applicant 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.

### 23-10E-5020 Dedication of Easements and Rights-of-Way

- (A) The applicant **must** 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 23-10-5020 (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.
- (C) The applicant **must** 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** allowed by a variance granted **under** Section 23-10E-4020(C) (Encroachment on Floodplain Prohibited);
    - (b) **Is** allowed in a floodplain **under** Section 23-10E-4030 (General Exceptions), Section 23-10E-4040 (Standards in Central Business Area), Section 23-10E-4050 (Standards for Parking Areas), or Section 23-10E-4060 (Standards in the 25-Year Floodplain);
    - (c) **Is** not a building or parking area; or
    - (d) **Is** a nonconforming use, as defined by Division 23-11B-1, Appendix G, Section G102.3 (Nonconforming Uses).

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## 23-10E-5030 Detention Basin Maintenance and Inspection

- (A) For a commercial, civic, industrial, or multi-family development:
  - (1) The record owner of the development **must** maintain the detention basin serving the development in compliance with the Drainage Criteria Manual, whether or not the basin is located on the same property as the development. The record owner **must** provide the City proof of the right to access and maintain the basin if it is not located on the same property as the development.
  - (2) If more than one development is served by a single detention basin, the record owners of the basin and all developments served by the basin **must** be jointly and severally responsible for maintenance of the basin in compliance with the Drainage Criteria Manual.
  - (3) The City shall inspect each detention basin that is not a subsurface basin at least once every three years to ensure that the basin is being maintained in compliance with the Drainage Criteria Manual. If the basin fails inspection requiring an additional inspection, the **director** may charge a re-inspection fee.
  - (4) The record owner of a subsurface detention basin **must** provide the Watershed Protection Department with a maintenance plan and an annual report from an engineer verifying that the basin is in proper operating condition.
- (B) For a duplex or single-family development:

- (1) The City shall be responsible for maintenance of the detention basin only after the basin has been accepted for maintenance by the City.
  - (2) The City will accept a detention basin for maintenance upon determining that it meets all standards of the Drainage Criteria Manual.
  - (3) Until the City accepts a detention basin for maintenance, the record owner(s) of the basin and the development served **must** maintain the basin in compliance with the Drainage Criteria Manual.
- (C) The **director** may authorize an alternative arrangement for maintenance of a detention basin in compliance with the Drainage Criteria Manual. 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.

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# Water Quality

**KEY**

Green text = new or modified language for Draft 2.

Purple text = new or modified language for Draft 3.

# Article 23-3D: Water Quality

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## Contents

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### Division 23-3D-1: General Provisions

- 23-3D-1010 Findings and Purpose
- 23-3D-1020 Applicability
- 23-3D-1030 Review Authority
- 23-3D-1040 Designation of Regulated Areas
- 23-3D-1050 Engineer's Certification



### Division 23-3D-2: Exceptions and Variances

- 23-3D-2010 Limited Adjustment
- 23-3D-2020 Condemnation and Accessibility Exceptions
- 23-3D-2030 Redevelopment Exception in Urban and Suburban Watersheds
- 23-3D-2040 Redevelopment Exception in the Barton Springs Zone
- 23-3D-2050 Redevelopment Exception in the Water Supply Rural and Water Supply Suburban Watersheds
- 23-3D-2060 Land Use Commission Variances
- 23-3D-2070 Administrative Modifications
- 23-3D-2080 Summary of Variances and Modifications

### Division 23-3D-3: Impervious Cover

- 23-3D-3010 Applicability of Impervious Cover Standards
- 23-3D-3020 Uplands Zones Established
- 23-3D-3030 Net Site Area
- 23-3D-3040 Impervious Cover Calculations
- 23-3D-3050 Impervious Cover Assumptions
- 23-3D-3060 Impervious Cover Limits for Urban Watersheds
- 23-3D-3070 Impervious Cover Limits for Suburban Watersheds
- 23-3D-3080 Impervious Cover Limits for Water Supply Suburban Watersheds
- 23-3D-3090 Impervious Cover and Density Limits for Water Supply Rural Watersheds
- 23-3D-3100 Impervious Cover Limits for the Barton Springs Zone
- 23-3D-3110 Impervious Cover Limits for Educational Facilities
- 23-3D-3120 Transfers of Development Intensity



### Division 23-3D-4: Waterway and Floodplain Protection

- 23-3D-4010 Waterway Classifications
- 23-3D-4020 Critical Water Quality Zones Established
- 23-3D-4030 Water Quality Transition Zones Established
- 23-3D-4040 Critical Water Quality Zone Development



- 23-3D-4050 Critical Water Quality Zone Street, Driveway, and Trail Crossings
- 23-3D-4060 Water Quality Transition Zone Development
- 23-3D-4070 Floodplain Modification

---

#### Division 23-3D-5: Protection for Special Features

- 23-3D-5010 Environmental Resource Inventory
- 23-3D-5020 Pollutant Attenuation Plan
- 23-3D-5030 Critical Environmental Features
- 23-3D-5040 Wetland Protection

---

#### Division 23-3D-6: Water Quality Control and Green Stormwater Infrastructure Standards



- 23-3D-6010 Applicability of Water Quality Control Standards
- 23-3D-6020 Previous Waivers and Special Exceptions
- 23-3D-6030 Water Quality Control and Green Stormwater Infrastructure Standards
- 23-3D-6040 Optional Payment Instead of Structural Controls in Urban Watersheds
- 23-3D-6050 Optional Payment Instead of Structural Controls in Suburban Watersheds
- 23-3D-6060 Cost Recovery Program
- 23-3D-6070 Water Quality Control Maintenance And Inspection
- 23-3D-6080 Dedicated Fund
- 23-3D-6090 Barton Springs Zone Operating Permit
- 23-3D-6100 Fiscal Security In The Barton Springs Zone

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#### Division 23-3D-7: Erosion and Sedimentation Control



- 23-3D-7010 Erosion and Sedimentation Control
- 23-3D-7020 Development Completion
- 23-3D-7030 Modification of Erosion Control and Construction Sequencing Plans
- 23-3D-7040 Additional Erosion and Sedimentation Control Standards in the Barton Springs Zone
- 23-3D-7050 Temporary Storage Areas; Topsoil Protection
- 23-3D-7060 Fiscal Surety

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#### Division 23-3D-8: Additional Standards in All Watersheds

- 23-3D-8010 Overland Flow
- 23-3D-8020 Interbasin Diversion
- 23-3D-8030 Construction on Slopes
- 23-3D-8040 Clearing of Vegetation
- 23-3D-8050 Clearing for a Roadway
- 23-3D-8060 Cut Standards
- 23-3D-8070 Fill Standards
- 23-3D-8080 Spoil Disposal
- 23-3D-8090 Blasting Prohibited
- 23-3D-8100 Wastewater Restrictions

- 23-3D-8110 Storm Sewer Discharge
  - 23-3D-8120 Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long
  - 23-3D-8130 **Threatened or** Endangered Species Notification
- 

**Division 23-3D-9: Save Our Springs Initiative**

- 23-3D-9010 Title and Purpose
- 23-3D-9020 Amendment
- 23-3D-9030 Declaration of Intent
- 23-3D-9040 Pollution Prevention Required
- 23-3D-9050 No Exemptions, Special Exceptions, Waivers or Variances
- 23-3D-9060 Application to Existing Tracts, Platted Lots, and Public Schools
- 23-3D-9070 Expiration of Prior Approvals
- 23-3D-9080 Limited Adjustment to Resolve Possible Conflicts with Other Laws
- 23-3D-9090 Construction of Ordinance
- 23-3D-9100 Reduce Risk of Accidental Contamination
- 23-3D-9110 Efficient and Cost-Effective Water Quality Protection Measures
- 23-3D-9120 Severability
- 23-3D-9130 Adoption of Water Quality Measures

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# Division 23-3D-1: General Provisions

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**Contents**

23-3D-1010 Findings and Purpose ..... 1  
23-3D-1020 Applicability ..... 2  
23-3D-1030 Review Authority ..... 2  
23-3D-1040 Designation of Regulated Areas ..... 3  
23-3D-1050 Engineer’s Certification ..... 4

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## 23-3D-1010 Findings and Purpose

(A) **Findings.**

- (1) The city council makes the following findings:
  - (a) The Austin Comprehensive Plan calls for protecting and improving the water quality of Austin’s creeks, lakes, and aquifers for community use and support of aquatic life.
  - (b) Austin’s watersheds are the lands that contribute to and sustain the City’s creeks and lakes. Development anywhere within a watershed can impact water that flows through it as well as downstream receiving waters. Protection of watersheds is critical to the health of waterways and the City’s water supply.
  - (c) Urbanization and changing land use conditions modify watershed hydrology, disrupt aquatic habitat, and increase erosion and the level of pollutants in waterways.
  - (d) Austin lies along the boundary of two ecological regions: the Edwards Plateau and the Blackland Prairie, which differ in certain critical respects.
    - (i) The Edwards Plateau features steep slopes, rugged canyons, and the caves and springs of the Edwards Aquifer. Its thin soils and rapid transmission of water mean stormwater receives very little filtration, which risks contamination of surface and groundwater. In addition, these western watersheds drain to the City’s principle sources of drinking water.
    - (ii) In contrast, the Blackland Prairie features broad, alluvial floodplains as well as deep but erosive clay soils and creek banks.
  - (e) Given these fundamental physical differences, watershed regulations have been tailored to best fit the unique and substantially different conditions of each region.
  - (f) Protection of the City’s watersheds and the quality of its water supply is necessary to protect public health, safety, and welfare.
- (2) In addition to the findings in Subsection (A)(1), the council incorporates the following as supplemental findings:
  - (a) The “Watershed Protection Master Plan” (City of Austin, Aug. 19, 2016), and all supporting documentation and studies cited therein; and

- (b) Section 13-15-201 (Findings and Objectives), adopted in Part 1 of Ordinance No. 860508-v.
- (B) **Purpose.** The purpose of this article is to protect the water quality of the City's creeks, lakes, and aquifers through:
- (1) Setbacks that preserve and restore the natural function of waterways and floodplain;
  - (2) Development standards that protect sensitive environmental features like caves, wetlands, springs, and steep slopes;
  - (3) Limits on impervious cover that protect natural function and infiltration;
  - (4) Limits on grading that maintain natural hydrology and minimize site disturbance;
  - (5) Stormwater control measures that slow down, filter, and use polluted runoff in beneficial ways; and
  - (6) Facilitating redevelopment that increases the degree to which pre-existing construction complies with this article; and
  - (7) Regulations and review procedures that protect property rights.

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### 23-3D-1020 **Applicability**

- (A) Except as provided in Subsections (B) and (C), this article applies in the planning jurisdiction.
- (B) For a preliminary plan, final plat, or subdivision construction plan in the portion of the City's extraterritorial jurisdiction that is within Travis County:
- (1) This article does not apply; and
  - (2) Title 30 (Austin/Travis County Subdivision Regulations) governs.
-  (3) For development of one to six residential units within the zoning jurisdiction, this article applies as specified in Division 23-2A-3 (Residential Development Regulations).
- (C) Development by the City of Austin is not exempt from the standards of this article.

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### 23-3D-1030 **Review Authority**

- (A) Authority and responsibility for implementing this chapter is delegated to the director of the Development Services Department, which is referred to in this chapter as "the director." However, the city manager may from time to time delegate particular functions under this chapter to one or more other City departments, which shall control over the general delegation in this subsection.
- (B) In exercising authority under this chapter, the director may consult with other City departments regarding issues within that department's area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (Overview of City Departments).

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**23-3D-1040 Designation of Regulated Areas**

- (A) **Designation of Regulated Areas.** For purposes of administering this article, the Watershed Director shall determine the boundaries of regulated areas according to the following designations:
- (1) BARTON SPRINGS ZONE means the Barton Creek watershed and all watersheds that contribute recharge to Barton Springs, including to those portions of the 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 includes the stratigraphic rock units known as the Edwards Group 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 East, Elm Creek, Elm Creek South, Gilleland, Harris Branch, Lake, Lockwood, Maha, Marble, North Fork Dry, Plum, 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, Boggy, East Bouldin, Fort, Harper's 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) 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 Lake watershed on the south side of Lady Bird Lake from Barton Creek to Tom Miller Dam;
  - (c) The Lady Bird Lake watershed on the north side of Lady Bird Lake from Johnson Creek to Tom Miller Dam; and
  - (d) The Lake Austin watershed on the east side of Lake Austin from Tom Miller Dam to Bull Creek.
- (B) **Verification Required.** The Watershed Director may require an applicant to:
- (1) verify the boundary of an area described in Subsection (A); and
  - (2) for property within 1,500 feet of an Edwards Aquifer recharge zone boundary, the Watershed Director may require that an applicant provide a certified report from a geologist or hydrologist verifying the boundary location.
- (C) **Boundary Map.** A map of the areas described in Subsection (A) is maintained by the Watershed Protection Department and available for inspection at the offices of the Development Services Department.

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## 23-3D-1050 Engineer's Certification

An engineer **must** certify a plan or plat as complete, accurate, and in compliance with the standards of this **article**. The director may waive this standard after making a determination that the plan or plat includes only minor alterations or improvements that do not require the services of an engineer.

# Division 23-3D-2: Exceptions and Variances

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## Contents

23-3D-2010	Limited Adjustment. . . . .	1
23-3D-2020	Condemnation and Accessibility Exceptions . . . . .	1
23-3D-2030	Redevelopment Exception in Urban and Suburban Watersheds . . . . .	2
23-3D-2040	Redevelopment Exception in the Barton Springs Zone . . . . .	2
23-3D-2050	Redevelopment Exception in the Water Supply Rural and Water Supply Suburban Watersheds . . . . .	5
23-3D-2060	Land Use Commission Variances . . . . .	7
23-3D-2070	Administrative Modifications . . . . .	8
23-3D-2080	Summary of Variances and Modifications. . . . .	10

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## 23-3D-2010 Limited Adjustment

- (A) Except as prohibited by Division 23-3D-9 (Save Our Springs Initiative), a limited adjustment from the standards of this article may be granted under Division 23-2F-3 (Limited Adjustments).

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## 23-3D-2020 Condemnation and Accessibility Exceptions

- (A) The director may approve replacement of existing development located on a property, or included in an approved site plan, if the development is reconfigured as a result of right-of-way configuration and the replacement complies with this section.
- (B) For development that existed in the condemned area of the property, the director may:
  - (1) Approve replacement of development that existed in the condemned area onto the remainder of the property; and
  - (2) Administratively modify the following requirements of this article, if the director determines that the replacement development will not increase the pollutant loading:
    - (a) requirements applicable to development in the water quality transition zone and the critical water quality zone; and
    - (b) the limitations of this article on impervious cover.
- (C) For property that had existing development or that was included in a released site plan on March 10, 1996, the director may approve additional development that exceeds the impervious cover limitations of this article if the director determines that the increased impervious cover is necessary to comply with the accessibility standards of the Americans With Disabilities Act or the Building Code.

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### 23-3D-2030 Redevelopment Exception in Urban and Suburban Watersheds

- (A) **Applicability.** This section applies to property that contains existing development and is located in an Urban or Suburban watershed if:
- (1) No unpermitted development occurred on the site after January 1, 1992; and
  - (2) The applicant files an election for the property to be governed by this section and:
    - (a) a site plan application; or
    - (b) concurrent subdivision and site plan applications, if the exception under Subsection (B) is requested for the subdivision of property.
- (B) **Requirements for Redevelopment Exception.** This article does not apply to redevelopment of property under this section if the redevelopment:
- (1) Does not increase the existing amount of impervious cover;
  - (2) Provides water quality controls that comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards) 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;
  - (4) Is consistent with the neighborhood plan adopted by council, if any;
  - (5) Does not increase non-compliance, if any, with Section 23-3D-4040 (Critical Water Quality Zone Development), Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), Section 23-3D-5030 (Critical Environmental Features), or Section 23-3D-5040 (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.
- (C) **Inventory and Construction Requirements.** Redevelopment under this section must comply with Section 23-3D-5010 (Environmental Resource Inventory) and all construction phase environmental standards in effect at the time of construction, including Division 23-3D-7 (Erosion and Sedimentation Control).

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### 23-3D-2040 Redevelopment Exception in the Barton Springs Zone

- (A) **Applicability.**
- (1) This section applies to property that contains existing commercial, civic, or industrial development and is located in the Barton Springs Zone if:
    - (a) No unpermitted development occurred on the site after January 1, 1992; and
    - (b) The applicant files an election for the property to be governed by this section and:
      - (i) a site plan application; or
      - (ii) concurrent subdivision and site plan applications, if the exception established under this section is requested for the subdivision of property.
  - (2) For redevelopment governed by this section, this section supersedes Division 23-3D-9 (Save Our Springs Initiative), to the extent of conflict.

(B) **Definitions.** In this section:

- (1) SEDIMENTATION/FILTRATION POND means water quality controls that comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards); and
- (2) SOS POND means water quality controls that comply with all standards of Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards) and the pollutant removal standards of Section 23-3D-9040(A) (Pollution Prevention Required).

(C) **Requirements for Redevelopment Exception.** The requirements of this article do not apply to the redevelopment of property under this section if redevelopment meets all of the conditions described in this subsection:

- (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 Section 23-3D-4040 (Critical Water Quality Zone Development), Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), Section 23-3D-4060 (Water Quality Transition Zone Development), Section 23-3D-5030 (Critical Environmental Features), or Section 23-3D-5040 (Wetland Protection).
- (3) The redevelopment must comply with Section 23-3D-5010 (Environmental Resource Inventory) and all construction phase environmental standards in effect at the time of construction, including Division 23-3D-7 (Erosion and Sedimentation Control) and Section 23-3D-6100 (Fiscal Security in the Barton Springs Zone).
- (4) The water quality controls 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, civic, industrial, or multi-family redevelopment, the owner or operator must obtain a permit under Section 23-3D-6090 (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 entire site; or
  - (b) SOS ponds for a portion of the site, and sedimentation/filtration ponds for the remainder of the redeveloped site.
- (7) For a site with 40 percent or less net site area impervious cover, the redevelopment must have SOS ponds for the entire site.
- (8) The applicant must mitigate the effects of the redevelopment, if required by and in compliance with Subsection (E).
- (9) Redevelopment may not be located within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.

(D) **Council Approval.**

- (1) **Applicability.** Council approval of redevelopment under this section is required if the redevelopment:
  - (a) Includes more than 25 dwelling units;
  - (b) Is located outside the City's zoning jurisdiction;

- (c) Is proposed on property with an existing industrial or civic use;
  - (d) Is inconsistent with a neighborhood plan; or
  - (e) 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.
- (2) **Criteria.** Council shall consider the following factors in determining whether to approve a proposed redevelopment **under Subsection (D)(1)**:
- (a) Benefits of the redevelopment to the community;
  - (b) Whether the proposed mitigation or manner of development offsets the potential environmental impact of the redevelopment;
  - (c) The effects of off-site infrastructure requirements of the redevelopment; and
  - (d) Compatibility with the City's **comprehensive plan**.
- (E) **Mitigation Land Required.** If a site has a sedimentation/filtration pond, redevelopment of the property **under this section** requires the purchase or restriction of mitigation land in compliance with this subsection.
- (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 standard 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 compliance with Paragraph (3), mitigation land approved by the Watershed **Director** 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 Watershed **Director** 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 Watershed **Director**.
  - (3) An applicant redeveloping **under this section must** 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.
- (F) **Administrative Rules.** The Watershed Director shall adopt rules establishing criteria for the review and approval of redevelopment under this section to ensure that the proposed mitigation, manner of development, and water quality controls offset the potential environmental impact of the redevelopment.

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## 23-3D-2050 **Redevelopment Exception in the Water Supply Rural and Water Supply Suburban Watersheds**

- (A) **Applicability.** This section applies to property that is located in a Water Supply Rural or Water Supply Suburban watershed and that contains existing commercial, civic, or industrial development, or more than two existing residential dwelling units per lot, if the following requirements are met:
  - (1) No unpermitted development occurred on the site after January 1, 1992; and
  - (2) The applicant files an election for the property to be governed by this section and:
    - (a) a site plan application; or
    - (b) concurrent subdivision and site plan applications, if the exception established under this section is requested for the subdivision of property.
- (B) **Definition.** In this section, water quality controls means water quality controls that comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).
- (C) **Requirements for Redevelopment Exception.** The requirements of this article do not apply to the redevelopment of property under this section 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 Section 23-3D-4040 (Critical Water Quality Zone Development), Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), Section 23-3D-4060 (Water Quality Transition Zone Development), Section 23-3D-5030 (Critical Environmental Features), or Section 23-3D-5040 (Wetland Protection).
  - (3) The redevelopment must comply with [Section 23-3D-5010 \(Environmental Resource Inventory\)](#) and all construction phase environmental standards in effect at the time of construction, including Division 23-3D-7 (Erosion and Sedimentation Control).
  - (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 [water quality controls](#) for the redeveloped area or an equivalent area on the site.
  - (5) The applicant **must** mitigate the effects of the redevelopment, if required by and in compliance 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.
- (D) **Council Approval.**

- (1) **Applicability.** Council approval of redevelopment under this section is required if:
  - (a) Includes more than 25 additional dwelling units;
  - (b) Is located outside the City's zoning jurisdiction;
  - (c) Is proposed on property with an existing industrial use;
  - (d) Is inconsistent with a neighborhood plan; or
  - (e) 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.
- (2) **Criteria.** Council shall consider the following factors in determining whether to approve a proposed redevelopment:
  - (a) Benefits of the redevelopment to the community;
  - (b) Whether the proposed mitigation or manner of development offsets the potential environmental impact of the redevelopment;
  - (c) The effects of off-site infrastructure requirements of the redevelopment; and
  - (d) Compatibility with the City's **comprehensive plan**.
- (E) **Mitigation Land.** Redevelopment of property under this section requires the purchase or restriction of mitigation land in compliance with this subsection.
  - (1) The combined impervious cover of the mitigation land and the portion of the redevelopment treated by **water quality controls** may not exceed 20 percent of **gross site area** if in a Water Supply Rural watershed or 40 percent of **gross site area** if in a Water Supply Suburban watershed.
  - (2) The mitigation standard may be satisfied by:
    - (a) Paying into the Water Supply Mitigation Fund a nonrefundable amount established by ordinance;
    - (b) Transferring to the City in compliance with Paragraph (3) mitigation land approved by the Watershed **Director** within a water supply rural or water supply suburban watershed, either inside or outside the City's jurisdiction;
    - (c) Placing restrictions in compliance with Paragraph (3) on mitigation land approved by the Watershed **Director** 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 Watershed **Director**.
  - (3) An applicant redeveloping under this section must 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.
- (F) **Administrative Rules.** The Watershed Director shall adopt rules establishing criteria for the review and approval of redevelopment under this section to ensure that the proposed mitigation, manner of development, and water quality controls offset the potential environmental impact of the redevelopment.

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## 23-3D-2060 Land Use Commission Variances

- (A) **Variance Authorized.** This section authorizes the Land Use Commission to grant a variance from specified requirements of this article.
- (B) **Variance Procedures.**
- (1) **Application and Public Notice Requirements.** A request for a variance under this section is subject to the general procedures for Land Use Commission variances established in Division 23-2F-1 (Variances and Special Exceptions), including Section 23-2F-1030 (Application Requirements) and Section 23-2F-1040 (Public Hearing and Notification).
  - (2) **Limited to Site Plan or Subdivision.** Except as provided in Division 23-2A-3 (Residential Development Regulations) or by another provision of this Title, a variance under this section may only be requested for a project that requires approval of a site plan or subdivision application.
  - (3) **Environmental Commission Review.** The Environmental Commission shall consider an application for a variance under this section and forward its recommendation to the Land Use Commission. The Land Use Commission shall consider the Environmental Commission's recommendation before acting on a variance.
  - (4) **Applicant's Burden.** An applicant for a variance under this section must establish that the request meets applicable criteria under Subsection (C).
- (C) **Criteria for Approval.**
- (1) **General Criteria.** Except as provided in Subsections (A)(2)-(3), the Land Use Commission may grant a variance from a requirement of this article after determining that:
    - (a) The requirement will deprive the applicant of a privilege available to owners of other similarly situated property with approximately contemporaneous development subject to similar code requirements; and
    - (b) The variance:
      - (i) Is not necessitated by the scale, layout, construction method, or other design decision made by the applicant, unless the design decision provides greater overall environmental protection than is achievable without the variance;
      - (ii) Is the minimum deviation from the code standard necessary to allow a reasonable use of the property; and

- (iii) Does not create a significant probability of harmful environmental consequences; and
  - (iv) Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.
- (2) **Supplemental Criteria.** The Land Use Commission may grant a variance from a requirement of Section 23-3D-4040 (Critical Water Quality Zone Development), Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), Section 23-3D-4060 (Water Quality Transition Zone Development), or Section 23-3D-8120 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long), after determining that:
  - (a) The criteria for granting a variance in Subsection (A) are met;
  - (b) The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and
  - (c) The variance is the minimum deviation from the code requirement necessary to allow a reasonable, economic use of the entire property.
- (3) **SOS Variances Prohibited.** The Land Use Commission may not grant a variance from a standard of Division 23-3D-9 (Save Our Springs Initiative).
- (D) **Action on Variance Application.** In acting on a variance application, the Land Use Commission is subject to the procedures established in Division 23-2F-1 (Variances and Special Exceptions), including the requirement to conduct a public hearing and make written findings. The Commission may approve a variance subject to reasonable conditions under Section 23-2F-1060 (Conditions and Modifications).

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## 23-3D-2070 Administrative Modifications

- (A) **Applicability.** The Watershed Director may grant an administrative modification from the requirements specified in this section, except that a modification may not be granted:
  - (1) from the requirements of Division 23-3D- 9 (Save Our Springs Initiative); or
  - (2) 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) **Application Requirements.**
  - (1) A request for an administrative modification under this section must be associated with a development application and must include any information required by the Watershed Director to evaluate whether the request meets the applicable requirements and criteria in Subsection (C) and (D) of this section.
  - (2) An applicant bears the burden of establishing that the requested modification meets all applicable requirements and criteria.
- (C) **Regulations Subject to Modification.** The Watershed Director may approve an administrative modification from the following regulations:
  - (1) Section 23-3D-4040 (Critical Water Quality Zone Development), if the modification is:
    - (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 in the Environmental Criteria Manual;

- (b) Necessary to allow an athletic field in existence on October 28, 2013, to be maintained, improved, or replaced;
  - (c) Necessary to allow an athletic field to be located in an area not otherwise allowed under Section 23-3D-4040(B)(7); or
  - (d) Necessary to allow a hard surfaced trail to be located in an area not otherwise allowed under Section 23-3D-4040(B)(5) (Critical Water Quality Zone Development);
- (2) Section 23-3D-4040 (Critical Water Quality Zone Development), if the proposed development is within an Urban watershed and:
- (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 Section 23-3D-4040 (Critical Water Quality Zone Development), Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), Section 23-3D-5030 (Critical Environmental Features), or Section 23-3D-5040 (Wetland Protection); and
  - (d) Restores native vegetation and soils if development is removed from the critical water quality zone;
- (3) Subsection 23-3D-4050(A)(3) (Critical Water Quality Zone Street, Driveway, and Trail Crossings), only for development located outside the Barton Springs Zone;
- (4) Section 23-3D-5030 (Critical Environmental Features);
- (5) Subsection 23-3D-6030(D) (Water Quality Control and Green Stormwater Infrastructure Standards);
- (6) Section 23-3D-8020 (Interbasin Diversion);
- (7) Section 23-3D-8050 (Clearing for a Roadway);
- (8) Section 23-3D-8060 (Cut Standards) or Section 23-3D-8070 (Fill Standards), for:
- (a) a cut or fill of not more than eight feet in a suburban watershed; or
  - (b) a public primary or secondary educational facility, within all watersheds; and
- (9) Subsection 23-3D-8080(A) (Spoil Disposal).
- (D) **Criteria for Approval.** The Watershed Director may grant a modification from a regulation under Subsection (C) only after determining that the proposed development meets the objectives of the standard for which the modification is requested and the following additional criteria:
- (1) For property in the Barton Springs Zone, that the modification will result in water quality that is at least equal to the water quality achievable without the modification;
  - (2) For a modification to Subsection 23-3D-4040(B)(7) (Critical Water Quality Zone Development), which pertains to athletic fields, that the proposed work on or placement of the athletic field will have no adverse water quality impacts;
  - (3) For a modification to Section 23-3D-4050(A)(3) (Critical Water Quality Zone Street, Driveway, and Trail Crossings), that the design of the crossing will improve creek function and mitigate adverse water quality impacts as prescribed in the Environmental Criteria Manual;

- (4) For a modification to Section 23-3D-5030 (Critical Environmental Features), that the proposed measures preserve all characteristics of the critical environmental feature;
- (5) For a modification to 23-3D-6030(D), that the proposed water quality control is necessitated by unique site conditions, excluding any potential loss of impervious cover entitlements resulting from full compliance;
- (6) For a modification to Section 23-3D-8020 (Interbasin Diversion), that there are no adverse water quality or drainage impacts;
- (7) For a modification to Section 23-3D-8060 (Cut Standards) or Section 23-3D-8070 (Fill Standards), that 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; and
- (8) For a modification to Section 23-3D-8080(A) (Spoil Disposal), use of the spoil provides one or more of the following necessary public benefits:
  - (a) Roadways;
  - (b) Stormwater detention facilities;
  - (c) Public or private park sites; and
  - (d) Building sites that comply with Section 23-3D-8060 (Cut Standards), 23-3D-8070 (Fill Standards), and Article 23-10E (Drainage).

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## 23-3D-2080 Summary of Variances and Modifications

The Watershed Director shall prepare and maintain for public inspection a written summary of variances and modifications granted and denied under Sections 23-3D-2060 (Land Use Commission Variances) and 23-3D-2070 (Administrative Modifications).

## Division 23-3D-3: Impervious Cover

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### Contents

23-3D-3010	Applicability of Impervious Cover Standards . . . . .	1
23-3D-3020	Uplands Zones Established . . . . .	1
23-3D-3030	Net Site Area . . . . .	1
23-3D-3040	Impervious Cover Calculations . . . . .	2
23-3D-3050	Impervious Cover Assumptions . . . . .	4
23-3D-3060	Impervious Cover Limits for Urban Watersheds . . . . .	4
23-3D-3070	Impervious Cover Limits for Suburban Watersheds . . . . .	5
23-3D-3080	Impervious Cover Limits for Water Supply Suburban Watersheds . . . . .	6
23-3D-3090	Impervious Cover and Density Limits for Water Supply Rural Watersheds . . . . .	7
23-3D-3100	Impervious Cover Limits for the Barton Springs Zone . . . . .	8
23-3D-3110	Impervious Cover Limits for Educational Facilities . . . . .	8
23-3D-3120	Transfers of Development Intensity . . . . .	8

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### 23-3D-3010 Applicability of Impervious Cover Standards

- (A) The impervious cover standards of this **article** do not restrict impervious cover on a single-family or **two-family** lot but apply to the subdivision as a whole.
- (B) For a subdivision with commercial, civic, industrial, or multi-family lots and an internal roadway, the impervious cover calculation for the platted lots will need to account for the roadway if the roadway exceeds the impervious cover limits within the right-of-way.
- (C) The impervious cover standards of this **article** do not apply to an application for a roadway improvement **with less than** 8,000 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.

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### 23-3D-3020 Uplands Zones Established

An uplands zone includes all land and waters not included in a critical water quality zone or a water quality transition zone.

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### 23-3D-3030 Net Site Area

- (A) Net site area includes only the portions of a site that lie in an uplands zone and have not been designated for **surface spray** wastewater irrigation.
- (B) For land described in Subsection (A), net site area is the aggregate of:

- (1) 100 percent of the land with a gradient of 15 percent or less;
  - (2) 40 percent of the land with a gradient of more than 15 percent and not more than 25 percent; and
  - (3) 20 percent of the land with a gradient of more than 25 percent and not more than 35 percent.
- (C) Net site area does not apply in the Urban and Suburban watersheds.

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## 23-3D-3040 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) 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) **Ground level rainwater harvesting cisterns, excluding subsurface cisterns;**
  - (6) Drainage swales and conveyances;
  - (7) **The water surface area of ground level pools, fountains, and ponds;**
  - (8) Areas with gravel placed over pervious surfaces that are used only for landscaping or by pedestrians and are not constructed with compacted base;
  - (9) Porous pavement designed under the Environmental Criteria Manual, limited to only pedestrian walkways and multi-use trails, and located outside the Edwards Aquifer recharge zone;
  - (10) Fire lanes designed as prescribed in the Environmental Criteria Manual, that consist of interlocking pavers, and are restricted from routine vehicle access;



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- (11) An access ramp for an existing single-family and two-family residential unit if:
- (a) A person with a disability requires access to a dwelling entrance that meets the standards of Chapter 23-11, Article 23-11B, Division 23-11B-11, Section R320.6 (Visitable dwelling entrance);
  - (b) The building official determines that the ramp will not pose a threat to public health and safety;
  - (c) The ramp:
    - (i) Is no wider than 48 inches, except that any portion of a landing for the ramp required for turns may be no wider than 60 inches; and
    - (ii) May have a hand railing, but may not have a roof or walls; and
  - (d) The ramp is located in a manner that utilizes existing impervious cover to the greatest extent possible if:
    - (i) Impervious cover on the property is at or above the maximum amount of impervious cover allowed by this Title; or
    - (ii) If placement of the ramp would result in the property exceeding the maximum amount of impervious cover allowed by this Title; and
- (12) A subsurface portion of a parking structure if the Watershed Director 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 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
  - (c) 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.
- (13) Construction of no more than 100 square feet of impervious cover for the placement of on-site recycling and organics diversion containers and related screening if:
- (a) Existing development on the site meets or exceeds the amount of impervious cover allowed by this article or Chapter 23-4 (Zoning);
  - (b) The use of the exemption is the only feasible way for the development to comply with City Code Chapter 15-6, Article 5, as determined by the Director of Austin Resource Recovery; and
  - (c) The site is located outside of the Barton Springs Zone.

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### 23-3D-3050 Impervious Cover Assumptions

- (A) This section applies to impervious cover calculations for two-family or single-family lots.
- (B) Except as provided in Subsection (C):
  - (1) For each lot greater than three acres in size, 10,000 square feet of impervious cover is assumed;
  - (2) For each lot greater than one acre and not more than three acres in size, 7,000 square feet of impervious cover is assumed;
  - (3) For each lot greater than 15,000 square feet and not more than one acre in size, 5,000 square feet of impervious cover is assumed;
  - (4) For each lot greater than 10,000 square feet and not more than 15,000 square feet in size, 3,500 square feet of impervious cover is assumed; and
  - (5) For each lot not more than 10,000 square feet in size, 2,500 square feet of impervious cover is assumed.
- (C) For a lot that is restricted to a lesser amount of impervious cover than prescribed by this section, the lesser amount of impervious cover is assumed. The manner in which the lot is restricted is subject to the approval of the director.
- (D) Except as provided in Subsection (C), this section does not restrict impervious cover on an individual lot.
- (E) The applicant must demonstrate that all proposed two-family or single-family lots have usable lot area that can reasonably accommodate the assumed square footage of impervious cover established by Subsection (B). The usable lot area must account for all applicable waterway setbacks, floodplains, steep slopes, critical environmental features, protected trees, on-site sewage facilities, and other relevant code restrictions.

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### 23-3D-3060 Impervious Cover Limits for Urban Watersheds

- (A) Applicability
  - (1) This section applies to development in the uplands zone of an Urban watershed.
  - (2) Impervious cover limits in this section are expressed as percentages of gross site area for the entire site.
- (B) Maximum Impervious Cover
  - (1) Maximum impervious cover for development within the City's zoning jurisdiction is established in Article 23-4D (Specific to Zones).
  - (2) Maximum impervious cover for development outside the City's zoning jurisdiction is 80 percent.

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**23-3D-3070 Impervious Cover Limits for Suburban Watersheds**

- (A) Applicability
  - (1) This [section](#) applies to development in the uplands zone of a [Suburban](#) watershed.
  - (2) Impervious cover limits in this [section](#) are expressed as percentages of gross site area for the entire site.
- (B) Maximum Impervious Cover
  - (1) This [subsection](#) applies in the extraterritorial jurisdiction and in the portions of the Lake, Rattan, Buttercup, South Brushy, and Brushy Creek watersheds that are in the zoning jurisdiction.
    - (a) Impervious cover for a [two-family](#) or single-family residential use with a minimum lot size of 5,750 square feet may not exceed:
      - (i) 45 percent; or
      - (ii) If development intensity is transferred [under](#) Section 23-3D-3120 (Transfers of Development Intensity), 50 percent.
    - (b) Impervious cover for a [two-family](#) or single-family residential use with a lot smaller than 5,750 square feet in size may not exceed:
      - (i) 55 percent; or
      - (ii) If development intensity is transferred [under](#) Section 23-3D-3120 (Transfers of Development Intensity), 60 percent.
    - (c) Impervious cover for a multi-family residential use may not exceed:
      - (i) 60 percent; or
      - (ii) If development intensity is transferred [under](#) Section 23-3D-3120 (Transfers of Development Intensity), 65 percent.
    - (d) Impervious cover for a commercial, civic, or industrial use may not exceed:
      - (i) 65 percent; or
      - (ii) If development intensity is transferred [under](#) Section 23-3D-3120 (Transfers of Development Intensity), 70 percent.
    - (e) Impervious cover for mixed use may not exceed:
      - (i) The limits in Subsection (B)(1)(c) for the portion of the ground floor that is multi-family residential;
      - (ii) The limits in Subsection (B)(1)(d) for the portion of the ground floor that is commercial, civic, or industrial; and
      - (iii) Impervious cover for the entire site is based on the ratios determined on the ground floor.
  - (2) This [subsection](#) applies in the portion of the zoning jurisdiction that is outside the Lake, Rattan, Buttercup, South Brushy, and Brushy Creek watersheds.
    - (a) Impervious cover for a [two-family](#) or single-family residential use with a minimum lot size of 5,750 square feet may not exceed:
      - (i) 50 percent; or

- (ii) If development intensity is transferred **under** Section 23-3D-3120 (Transfers of Development Intensity), 60 percent.
- (b) Impervious cover for a **two-family** or single-family residential use with a lot smaller than 5,750 square feet in size may not exceed:
  - (i) 55 percent; or
  - (ii) If development intensity is transferred **under** Section 23-3D-3120 (Transfers of Development Intensity), 60 percent.
- (c) Impervious cover for a multi-family residential use may not exceed:
  - (i) 60 percent; or
  - (ii) If development intensity is transferred **under** Section 23-3D-3120 (Transfers of Development Intensity), 70 percent.
- (d) Impervious cover for a commercial, civic, or industrial use may not exceed:
  - (i) 80 percent; or
  - (ii) If development intensity is transferred **under** Section 23-3D-3120 (Transfers of Development Intensity), 90 percent.
- (e) Impervious cover for mixed use may not exceed:
  - (i) The limits in Subsection (B)(2)(c) for the portion of the ground floor that is multi-family residential;
  - (ii) The limits in Subsection (B)(2)(d) for the portion of the ground floor that is commercial, civic, or industrial; and
  - (iii) Impervious cover for the entire site is based on the ratios determined on the ground floor.

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## 23-3D-3080 Impervious Cover Limits for Water Supply Suburban Watersheds

- (A) Applicability
  - (1) This **section** applies to development in the uplands zone of a Water Supply Suburban watershed.
  - (2) Impervious cover limits in this **section** are expressed as percentages of net site area.
- (B) Maximum Impervious Cover
  - (1) Impervious cover for a **two-family** or single-family residential use may not exceed:
    - (a) 30 percent; or
    - (b) If development intensity is transferred **under** Section 23-3D-3120 (Transfers of Development Intensity), 40 percent.
  - (2) Impervious cover for a commercial, civic, industrial, multi-family, or mixed use may not exceed:
    - (a) 40 percent; or
    - (b) If development intensity is transferred **under** Section 23-3D-3120 (Transfers of Development Intensity), 55 percent.

## 23-3D-3090 Impervious Cover and Density Limits for Water Supply Rural Watersheds

- (A) Applicability
  - (1) This [section](#) applies to development in the uplands zone of a Water Supply Rural watershed.
  - (2) Density and impervious cover limits are based on net site area.
- (B) Maximum Impervious Cover and Density
  - (1) For a [two-family](#) or single family residential use, density may not exceed:
    - (a) One unit for each two acres, with a minimum lot size of three-quarters acre; or
    - (b) If development intensity is transferred [under](#) Section 23-3D-3120 (Transfers of Development Intensity), one unit for each acre, with a minimum lot size of one-half acre.
  - (2) This [subsection](#) applies to a cluster housing development that maximizes common open space by grouping housing units to minimize individual yards and has a maximum lot area of 15,000 square feet for detached residential development.
    - (a) Density may not exceed:
      - (i) One unit for each acre; or
      - (ii) If development intensity is transferred [under](#) Section 23-3D-3120 (Transfers of Development Intensity), two units for each acre.
    - (b) At least 40 percent of the uplands area of a site must be retained in or restored to its natural state to serve as a buffer. The buffer must be contiguous to the development, and must receive overland drainage from the developed areas of the site unless a water quality control is provided. Use of the buffer is limited to fences, [water quality controls that comply with Section 23-3D-6030 \(Water Quality Control and Green Stormwater Infrastructure Standards\)](#), utilities that cannot reasonably be located elsewhere, irrigation lines not associated with wastewater disposal, and access for site construction. A wastewater disposal area may not be located in the buffer.
  - (3) This [subsection](#) applies to a commercial, civic, industrial, multi-family, or mixed use.
    - (a) Impervious cover may not exceed:
      - (i) 20 percent; or
      - (ii) If development intensity is transferred [under](#) Section 23-3D-3120 (Transfers of Development Intensity), 25 percent.
    - (b) At least 40 percent of the uplands area of a site must be retained in or restored to its natural state to serve as a buffer. The buffer must be contiguous to the development, and must receive overland drainage from the developed areas of the site unless a water quality control is provided. Use of the buffer is limited to fences, [water quality controls that comply with Section 23-3D-6030 \(Water Quality Control and Green Stormwater Infrastructure Standards\)](#), utilities that cannot reasonably be located elsewhere, irrigation lines not associated with wastewater disposal, and access for site construction. A wastewater disposal area may not be located in the buffer.

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### 23-3D-3100 Impervious Cover Limits for the Barton Springs Zone

- (A) This section applies to development in the Barton Springs Zone.
- (B) Maximum impervious cover for development in the Barton Springs Zone is established in Division 23-3D-9 (Save Our Springs Initiative).

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### 23-3D-3110 Impervious Cover Limits for Educational Facilities

- (A) This section establishes impervious cover limits for development of a public primary or secondary educational facility.
- (B) In watersheds other than an Urban watershed or the Barton Spring Zone, the maximum impervious cover in an upland zone is 50 percent of net site area or 60 percent of net site area, if transfer of impervious cover is authorized and used.
- (C) In an Urban watershed, maximum impervious cover is the greater of:
  - (1) 65 percent gross site area; or
  - (2) The impervious cover allowed under Article 23-4D (Specific to Zones) for the base zoning district in which the educational facility is located.
- (D) In the Barton Springs Zone, maximum impervious cover is established by Division 23-3D-9 (Save Our Springs).

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### 23-3D-3120 Transfers of Development Intensity

- (A) **General Standards.**
  - (1) An applicant who qualifies for a development intensity transfer under this section must comply with the standards of this subsection to effect the transfer.
    - (a) For transfers between two subdivided tracts, an applicant must:
      - (i) transfer development intensity to a receiving tract that is within the same watershed classification as the transferring tract unless the transferring and receiving tracts are both owned by the applicant and not separated by property held in separate ownership;
      - (ii) concurrently plat the transferring and receiving tracts and transfer all development intensity at that time of platting;
      - (iii) note the development intensity transfer on the plats of the transferring and receiving tracts, in a manner approved by the director; and
      - (iv) file in the deed records a restrictive covenant or other appropriate document, approved by the City Attorney, that describes the development intensity transfer approved under this section.
    - (b) For transfers between two site plans:
      - (i) An applicant must transfer development intensity to a receiving tract that is within the same watershed classification as the transferring tract; unless the transferring and receiving tracts are both owned by the applicant and not separated by property held in separate ownership;

- (ii) The transfer must be noted on the receiving and transferring site plans;
  - (iii) An applicant **must** file in the deed records a restrictive covenant **or other appropriate document**, approved by the City Attorney, that describes the development intensity transfer.
  - (iv) The transfer must occur before the receiving and transferring site plans are released.
- (c) For transfers within a single site plan, an applicant **must** file in the deed records a restrictive covenant **or other appropriate document**, approved by the City Attorney that describes the development intensity transfer **approved under this section**.

**(B) Suburban Watersheds.**

- (1) An applicant who complies with a provision of this **subsection** qualifies for the development intensity transfer described in the provision, subject to the standards in Subsection (A) and the impervious cover limitations in Section 23-3D-3070 (Impervious Cover Limits for Suburban Watersheds).
- (a) The applicant may transfer 20,000 square feet of impervious cover to an uplands zone for each acre of land in a critical water quality zone:
- (i) Dedicated to the City or another entity approved by the Watershed **Director** in fee simple and which the City or other approved entity accepts; or
  - (ii) On which restrictions are placed to the benefit of the City or other approved entity and which the City or other approved entity accepts; and
  - (iii) The applicant does not include in impervious calculations elsewhere.
- (b) The applicant may transfer 20,000 square feet of impervious cover to an uplands zone for each acre of land in an uplands zone:
- (i) Located either in the 100-year floodplain or in an environmentally sensitive area as determined by environmental resource inventory and approved by the Watershed **Director**; and
  - (ii) Dedicated to the City or another entity approved by the Watershed **Director** in fee simple and which the City or other approved entity accepts; or
  - (iii) On which restrictions are placed to the benefit of the City or other approved entity and which the City or other approved entity accepts; and
  - (iv) The applicant does not include in impervious calculations elsewhere.
- (c) Land dedicated in fee simple to the City **under** this **subsection** may also be credited toward the parkland dedication standards of Article 23-3B (Parkland Dedication).

**(C) Water Supply Suburban Watersheds.**

- (1) An applicant who complies with a provision of this **section** qualifies for the development intensity transfer described in the provision, subject to the standards in Subsection (A) and the impervious cover limitations in Section 23-3D-3080 (Impervious Cover Limits for Water Supply Suburban Watersheds).
- (a) The applicant may transfer 15,000 square feet of impervious cover to an uplands zone for each acre of land in a critical water quality zone or water quality transition zone:

- (i) Dedicated to the City or another entity approved by the Watershed **Director** in fee simple and which the City or other approved entity accepts; or
  - (ii) On which restrictions are placed to the benefit of the City or other approved entity and which the City or other approved entity accepts; and
  - (iii) The applicant does not include in impervious calculations elsewhere.
- (b) Land dedicated in fee simple to the City **under** this **subsection** may also be credited toward the parkland dedication standards of Article 23-3B (Parkland Dedication).

**(D) Water Supply Rural Watersheds.**

- (1) An applicant who complies with a provision of this **section** qualifies for the development intensity transfer described in the provision, subject to the standards in Subsection (A) and the impervious cover limitations in Section 23-3D-3090 (Impervious Cover and Density Limits for Water Supply Rural Watersheds).
- (a) The applicant may transfer one single-family residential housing unit or 6,000 square feet of impervious cover for commercial, civic, industrial, or multi-family development to an uplands zone for each acre of land in a critical water quality zone or water quality transition zone:
- (i) Dedicated to the City or another entity approved by the Watershed **Director** in fee simple and which the City or other approved entity accepts; or
  - (ii) On which restrictions are placed to the benefit of the City or other approved entity and which the City or other approved entity accepts; and
  - (iii) The applicant does not include in impervious calculations elsewhere.
- (b) Land dedicated in fee simple to the City **under** this **subsection** may also be credited toward the parkland dedication standards of Article 23-3B (Parkland Dedication).

**(E) Barton Springs Zone.**

- (1) Development intensity may not be transferred in the Barton Springs Zone except as part of an adjustment **under** Section 23-3D-9080 (Limited Adjustment To Resolve Possible Conflicts With Other Laws).

# Division 23-3D-4: Waterway and Floodplain Protection

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## Contents

23-3D-4010	Waterway Classifications . . . . .	1
23-3D-4020	Critical Water Quality Zones Established . . . . .	1
23-3D-4030	Water Quality Transition Zones Established . . . . .	3
23-3D-4040	Critical Water Quality Zone Development . . . . .	3
23-3D-4050	Critical Water Quality Zone Street, Driveway, and Trail Crossings . . . . .	7
23-3D-4060	Water Quality Transition Zone Development . . . . .	7
23-3D-4070	Floodplain Modification . . . . .	9

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## 23-3D-4010 Waterway Classifications

- (A) This section classifies the waterways according to drainage area.
- (B) In all watersheds except Urban **watersheds**:
  - (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 major waterway has a drainage area of more than 640 acres.

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## 23-3D-4020 Critical Water Quality Zones Established

- (A) In the Water Supply Rural watersheds, Water Supply Suburban watersheds, and Barton Springs Zone, a critical water quality zone is established along each waterway classified by Section 23-3D-4010 (Waterway Classifications).
  - (1) The boundaries of a critical water quality zone coincide with the boundaries of the 100-year floodplain calculated under fully developed conditions as prescribed in 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 **railroad** or public roadway right-of-way that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition, as prescribed in the Environmental Criteria Manual.
- (B) In the Suburban watersheds, a critical water quality zone is established along each waterway classified by Section 23-3D-4010 (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.
  - (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 **railroad** or public roadway right-of-way that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition.
- (C) 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 Interstate Highway 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 in 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 (C)(1), a critical water quality zone does not apply to a previously modified drainage feature serving a **railroad** or public roadway right-of-way that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition.
- (D) Critical water quality zones are established to include the inundated areas that constitute Lake Walter E. Long, Lake Travis, Lake Austin, Lady Bird Lake, and the Colorado River downstream of Lady Bird Lake.
- (E) Critical water quality zones are established along and parallel to the shorelines of Lake Travis, Lake Austin, Lady Bird Lake, and **Lake Walter E. Long**.
  - (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;
    - (c) For Lady Bird Lake, coincides with the 429.0 foot contour line; **and**

- (d) For Lake Walter E. Long, coincides with the 554.5 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.
- (F) Critical water quality zones are established along and parallel to the shorelines of the Colorado River downstream of Lady Bird 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 FEMA floodplain, 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.

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### 23-3D-4030 Water Quality Transition Zones Established

- (A) In the Water Supply Rural watersheds, Water Supply Suburban watersheds, and in the Barton Springs Zone, excluding Lake Austin, Lake Travis, and Lady Bird Lake, a water quality transition zone is established adjacent and parallel to the outer boundary of each critical water quality zone.
- (B) The width of a water quality transition zone is:
  - (1) For a minor waterway, 100 feet;
  - (2) For an intermediate waterway, 200 feet; and
  - (3) For a major waterway, 300 feet.

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### 23-3D-4040 Critical Water Quality Zone Development

- (A) In all watersheds, development is prohibited in a critical water quality zone except as provided in this division. Development allowed in the critical water quality zone under this division must be revegetated and restored within the limits of construction as prescribed in the Environmental Criteria Manual.
- (B) A fence that does not obstruct flood flows is allowed in a critical water quality zone.
- (C) Low impact park development is allowed in a critical water quality zone if a program of fertilizer, pesticide, and herbicide use is approved by the Watershed Director, subject to the conditions in this subsection.
  - (1) Low impact park development includes multi-use trails, golf cart paths, the portions of a golf course left in a natural state, sustainable urban agriculture or community gardens, athletic fields, and an area or facility intended for outdoor recreational activities which does not significantly alter the existing natural vegetation or drainage patterns or increase erosion. Low impact park development does not include a parking lot.

- (2) In a Water Supply Rural watershed, Water Supply Suburban watershed, or the Barton Springs Zone, low impact park development is limited to multi-use trails, sustainable urban agriculture or community gardens, and an area or facility intended for outdoor recreational activities.
- (3) A master planned park that is approved by the Council may include recreational development other than that described in Subsection (C)(1) or (C)(2).
- (4) A hard surfaced trail may cross the critical water quality zone under Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings). A hard surfaced trail that does not cross the critical water quality zone may be located within the critical water quality zone only if:
  - (a) Designed in compliance with the Environmental Criteria Manual;
  - (b) Located outside the erosion hazard zone unless protective works are provided as prescribed in the Drainage Criteria Manual;
  - (c) Limited to 12 feet in width unless a wider trail is designated in the Urban Trails Master Plan, the Parks and Recreation Long Range Plan, or an adopted park master plan;
  - (d) Located not less than 25 feet from the centerline of a waterway if within an Urban watershed;
  - (e) Located 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 within a watershed other than an Urban watershed;
  - (f) Located not less than 50 feet from the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Walter E. Long, as defined in Section 23-3D-4020 (Critical Water Quality Zones Established); and
  - (g) Located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam.
- (5) Low impact park development may include sustainable urban agriculture or a community garden only if:
  - (a) In an Urban watershed and located not less than 25 feet from the centerline of a waterway, or in a watershed other than an Urban watershed and located 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;
  - (b) Located not less than 50 feet from the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Walter E. Long, as defined in Section 23-3D-4020 (Critical Water Quality Zones Established);
  - (c) Located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam;
  - (d) Designed in compliance with the Environmental Criteria Manual; and
  - (e) Limited to garden plots and paths, with no storage facilities or other structures over 500 square feet.
- (6) In a Suburban or Urban watershed, low impact park development may include an athletic field only if:

- (a) In an Urban watershed and located not less than 25 feet from the centerline of a waterway, or is in a Suburban watershed and located 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;
  - (b) Located not less than 50 feet from the shoreline of Lady Bird Lake and Lake Walter E. Long, as defined in Section 23-3D-4020 (Critical Water Quality Zones Established);
  - (c) Located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam; and
  - (d) The applicant submits to the Watershed **Director** a maintenance plan to keep the athletic field well vegetated and minimize compaction, as prescribed in the Environmental Criteria Manual.
- (D) The standards of this subsection apply along Lake Travis, Lake Austin, or Lady Bird Lake.
- (1) A dock, public boat ramp, bulkhead or marina, and necessary access and appurtenances, are allowed in a critical water quality zone subject to compliance with Division 23-4E-5 (Docks, Bulkheads, and Shoreline). For a single-family residential use, necessary access may not exceed the minimum area of land disturbance required to construct a single means of access from the shoreline to a dock.
  - (2) Disturbed areas must be restored in compliance with the Environmental Criteria Manual and the following standards:
    - (a) Within a lakefront critical water quality zone, or an equivalent area within 25 feet of a shoreline, restoration must include:
      - (i) At least one native shade tree and one native understory tree, per 500 square feet of disturbed area; and
      - (ii) One native shrub per 150 square feet of disturbed area; and
    - (b) Remaining disturbed areas must be restored per standard specifications for native restoration.
  - (3) Within the shoreline setback area defined by Section 23-4D-2070 (Lake Austin (LA) Residential Zone) and within the overlay established by Section 23-4D-9100 (Lake Austin Overlay Zone), no more than 30 percent of the total number of shade trees of 8 inches or greater, as designated in the Environmental Criteria Manual, may be removed.
  - (4) Before a building permit may be issued or a site plan released, approval by the Watershed **Director** is required for chemicals used to treat building materials that will be submerged in water.
  - (5) Bank erosion above the 100-year floodplain may be stabilized within a lakefront critical water quality zone if the restoration meets the standards of Subsection (D)(2).
  - (6) A retaining wall, bulkhead, or other erosion protection device must be designed and constructed to minimize wave return and wave action in compliance with the Environmental Criteria Manual. A shoreline modification within the wave action zone with a greater than 45 degree vertical slope for any portion greater than one foot in height is not allowed on or adjacent to the shoreline of a lake, unless the shoreline modification is located within an existing man-made channel.

- (E) A utility line, including a storm drain, is prohibited in the critical water quality zone, except as provided in Subsection (E) or for a necessary crossing. A necessary utility crossing may cross into or through a critical water quality zone only if:
- (1) The utility line follows the most direct path into or across the critical water quality zone to minimize disturbance;
  - (2) The depth of the utility line and location of associated access shafts are not located within an erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual; and
  - (3) In the Barton Springs Zone, is approved by the Watershed **Director**.
- (F) In the Urban and Suburban watersheds, a utility line may be located parallel to and within the critical water quality zone if:
- (1) In an Urban watershed and located not less than 50 feet from the centerline of a waterway, or in a watershed other than Urban and located 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;
  - (2) Located not less than 50 feet from the shoreline of Lady Bird Lake and Lake Walter E. Long, as defined in Section 23-3D-4020 (Critical Water Quality Zones Established);
  - (3) Located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam;
  - (4) Designed in compliance with the Environmental Criteria Manual;
  - (5) Located outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual; and
  - (6) The development includes either riparian restoration of an area within the critical water quality zone equal in size to the area of disturbance in compliance with the Environmental Criteria Manual, or payment into the Riparian Zone Mitigation Fund of a non-refundable amount established by ordinance.
- (G) **In-channel** detention basins and **in-channel** wet ponds are **allowed** in the critical water quality zone **only if designed in accordance with the Environmental Criteria Manual**.
- (H) Floodplain modifications are prohibited in the critical water quality zone unless:
- (1) The floodplain modifications proposed are necessary to **address an existing threat to public health and safety, as determined by the Watershed Director**;
  - (2) The floodplain modifications proposed would provide a significant, demonstrable environmental benefit, as determined by a functional assessment of floodplain health as prescribed in the Environmental Criteria Manual; or
  - (3) The floodplain modifications proposed are necessary for development allowed in the critical water quality zone by Section 23-3D-4040 (Critical Water Quality Zone Development), 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), or Section 23-3D-8120 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long).
- (I) In the Urban and Suburban watersheds, vegetative filter strips, rain gardens, biofiltration ponds, areas used for irrigation or infiltration of stormwater, or other controls as prescribed in rule are allowed in the critical water quality zone if:

- (1) In an Urban watershed and located not less than 50 feet from the centerline of a waterway, or in a watershed other than Urban and located 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;
  - (2) Located not less than 50 feet from the shoreline of Lady Bird Lake and Lake Walter E. Long, as defined in Section 23-3D-4020 (Critical Water Quality Zones Established);
  - (3) Located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam;
  - (4) Located outside the 100-year floodplain; and
  - (5) Located outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.
- (J) Development associated with power generation, transmission, or distribution at the Decker Creek Power Station is allowed in the critical water quality zone.
- (K) A residential lot that is 5,750 square feet or less in size may not include any portion of a critical water quality zone.


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### 23-3D-4050 Critical Water Quality Zone Street, Driveway, and Trail Crossings

- (A) A public street, private street, or driveway may not cross the critical water quality zone of any waterway unless:
- (1) Necessary to comply with the standards of Article 23-9F (Street Design) or necessary to provide primary access to at least two contiguous acres or at least five residential units;
  - (2) The alignment minimizes disturbance to the creek, riparian zone, and other environmental features as specified in the Environmental Criteria Manual; and
  - (3) The crossing does not utilize culverts and is designed in compliance with the Drainage and Environmental Criteria Manuals.
- (B) Notwithstanding Subsection (A), improvements are allowed to existing public streets, private streets, and driveways crossing the critical water quality zone that are determined by the Watershed Director to be necessary to protect public health and safety for the purposes of flood mitigation or erosion.
- (C) In all watersheds, multi-use trails may cross a critical water quality zone of any waterway if:
- (1) Designed in compliance with the Environmental Criteria Manual; and
  - (2) The development demonstrates no additional adverse impact from flood or erosion potential.

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### 23-3D-4060 Water Quality Transition Zone Development

- (A) **Water Supply Suburban Watersheds.**
- (1) Development is prohibited in a water quality transition zone that lies over the South Edwards Aquifer recharge zone, except for:

- (a) Development described in Section 23-3D-4040 (Critical Water Quality Zone Development) or Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings); and
  - (b) Minor drainage facilities or water quality controls that comply with Section 23-3D-4070 (Floodplain Modification) and the floodplain modification criteria in the Environmental Criteria Manual.
- (2) In a water quality transition zone that does not lie over the South Edwards Aquifer recharge zone, the impervious cover of the land area of a site may not exceed 18 percent. In determining land area, land in the 100-year floodplain is excluded.
- (3) Water quality controls may be located in a water quality transition zone that does not lie over the South Edwards Aquifer recharge zone.
- (B) Water Supply Rural Watersheds.**
- (1) Development is prohibited in a water quality transition zone that lies over the South Edwards Aquifer recharge zone, except for:
    - (a) Development described in Section 23-3D-4040 (Critical Water Quality Zone Development) or Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings); and
    - (b) Minor drainage facilities or water quality controls that comply with Section 23-3D-4070 (Floodplain Modification) and the floodplain modification criteria in the Environmental Criteria Manual.
  - (2) Development is prohibited in a water quality transition zone that lies outside the South Edwards Aquifer recharge zone, except for:
    - (a) Development described in Section 23-3D-4040 (Critical Water Quality Zone Development) or Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings);
    - (b) Minor drainage facilities or water quality controls that comply with Section 23-3D-4070 (Floodplain Modification) and the floodplain modification guidelines of the Environmental Criteria Manual;
    - (c) Streets; and
    - (d) **Two-family** or single-family residential development with a minimum lot size of two acres and a density of not more than one unit for each three acres, excluding acreage in the 100-year floodplain.
  - (3) A lot that lies within a critical water quality zone must also include at least two acres in a water quality transition zone or uplands zone.
- (C) Barton Springs Zone Watersheds**
- (1) Development is prohibited in a water quality transition zone that lies over the South Edwards Aquifer recharge zone, except for:
    - (a) Development described in Section 23-3D-4040 (Critical Water Quality Zone Development) or Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings); and
    - (b) Minor drainage facilities or water quality controls that comply with Section 23-3D-4070 (Floodplain Modification) and the floodplain modification criteria in the Environmental Criteria Manual.

- (2) Development is prohibited in a water quality transition zone that lies outside the South Edwards Aquifer recharge zone, except for:
  - (a) Development described in Section 23-3D-4040 (Critical Water Quality Zone Development) or Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings);
  - (b) Minor drainage facilities or water quality controls that comply with Section 23-3D-4070 (Floodplain Modification) and the floodplain modification guidelines of the Environmental Criteria Manual;
  - (c) Streets; and
  - (d) **Two-family** or single-family residential housing with a minimum lot size of two acres and a density of not more than one unit for each three acres, excluding acreage in the 100-year floodplain.

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### 23-3D-4070 Floodplain Modification

- (A) Floodplain modification within a critical water quality zone is prohibited except as allowed **under** Section 23-3D-4040 (Critical Water Quality Zone Development).
- (B) Floodplain modification **outside a critical water quality zone** is allowed only if the modification proposed:
  - (1) Is necessary to **address an existing threat** to public health and safety, **as determined by the Watershed Director**;
  - (2) Would provide a significant, demonstrable environmental benefit, as determined by a functional assessment of floodplain health as prescribed in the Environmental Criteria Manual;
  - (3) Is located within a floodplain area classified as in fair or poor condition, as determined by a functional assessment of floodplain health as prescribed in the Environmental Criteria Manual; or
  - (4) Is necessary for development allowed by Section 23-3D-4040 (Critical Water Quality Development), 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), or Section 23-3D-8120 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long).
- (C) **All** floodplain modifications must:
  - (1) Designed to accommodate existing and fully-vegetated conditions;
  - (2) Encourage sound engineering and ecological practices, prevent and reduce **adverse** water quality **impacts**, and encourage the stability and integrity of floodplains and waterways, as prescribed in the floodplain modification criteria in the Environmental Criteria Manual;
  - (3) Restore floodplain health, or provide mitigation if restoration is infeasible, to support natural functions and processes as prescribed in the floodplain modification criteria in the Environmental Criteria Manual; and
  - (4) Comply with the standards of Article 23-10E (Drainage), the Drainage Criteria Manual, and the Environmental Criteria Manual.
- (D) If mitigation is required by this **section**, it may be satisfied by:

- (1) Paying into the Riparian Zone Mitigation Fund a nonrefundable amount established by ordinance;
- (2) Transferring in fee simple or placing restrictions on mitigation land approved by the Watershed **Director** and meeting the following conditions:
  - (a) Located within the same watershed classification;
  - (b) In compliance with the procedures in Section 23-3D-2040 (Redevelopment Exception in the Barton Springs Zone), Subsection (H)(3);
  - (c) Dedicated to or restricted for the benefit of the City or another entity approved by the Watershed **Director** and which the City or other approved entity accepts; and
  - (d) An amount proportionate to the amount of area within the existing floodplain that is proposed to be modified, as prescribed in the Environmental Criteria Manual; or
- (3) A combination of the mitigation methods described in Subparagraphs (1) and (2), if approved by the Watershed **Director**.

# Division 23-3D-5: Protection for Special Features

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## Contents

23-3D-5010	Environmental Resource Inventory .....	1
23-3D-5020	Pollutant Attenuation Plan.....	2
23-3D-5030	Critical Environmental Features .....	2
23-3D-5040	Wetland Protection .....	4

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## 23-3D-5010 Environmental Resource Inventory

- (A) An applicant **must** file an environmental resource inventory with the director for proposed development located **on a tract**:
  - (1) **Within the Edwards Aquifer recharge or contributing zone**;
  - (2) **Within the Drinking Water Protection Zone**;
  - (3) **Containing** a water quality transition zone;
  - (4) **Containing** a critical water quality zone;
  - (5) **Containing** a floodplain; or
  - (6) With a gradient of more than 15 percent.
- (B) An environmental resource inventory **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;
  - (4) Describe proposed industrial uses and the pollution abatement program; and
  - (5) Be completed as prescribed in the Environmental Criteria Manual.
- (C) An environmental resource inventory **must** include the following elements:
  - (1) **A hydrogeologic report, which must**:
    - (a) Generally describe the topography, soils, and geology of the site;
    - (b) Identify springs and significant point recharge features on the site;
    - (c) Demonstrate that proposed drainage patterns will protect the quality and quantity of recharge at significant point recharge features; and
    - (d) Identify all recorded and unrecorded water wells, both on the site and within 150 feet of the boundary of the site.
  - (2) **A vegetation report, which must**:
    - (a) Demonstrate that the proposed development:

- (i) Preserve to the greatest extent practicable the significant trees and vegetation on the site; and
  - (ii) Provide maximum erosion control and overland flow benefits from the vegetation.
- (b) Include one of the following:
- (i) A tree survey of all trees with a diameter of at least eight inches measured four and one-half feet above natural grade level; or
  - (ii) On approval of the Watershed Director, aerial imagery that was photographed between the months of April and November; and
  - (iii) A vegetation survey that shows the approximate locations and types of all significant vegetation.
- (3) A wastewater report, which must:
- (a) Provide environmental justification for a sewer line location in a critical water quality zone;
  - (b) Address construction techniques and standards for wastewater lines;
  - (c) Include calculations of drainfield or wastewater irrigation areas;
  - (d) Describe alternative wastewater disposal systems used over the Edwards Aquifer recharge zone; and
  - (e) Address on-site collection and treatment systems, their treatment levels, and effects on receiving watercourses or the Edwards Aquifer.
- (D) The Watershed Director may permit an applicant to exclude from an environmental resource inventory information required by this section after determining that the information is unnecessary because of the scope and nature of the proposed development.

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### 23-3D-5020 Pollutant Attenuation Plan

An applicant proposing an industrial use that is not completely enclosed in a building **must** provide a pollutant attenuation plan in compliance with the Environmental Criteria Manual.

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### 23-3D-5030 Critical Environmental Features

- (A) Drainage patterns for proposed development must be designed to protect critical environmental features from the effects of runoff from developed areas, and to maintain the catchment areas of recharge features in a natural state. Special controls must be used where necessary to avoid the effects of erosion, sedimentation, or high rates of flow.
- (B) A residential lot may not include a critical environmental feature or a critical environmental feature **buffer zone**.
- (C) This subsection prescribes the standards for critical environmental feature buffer zones.

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- (1) A buffer zone is established around each critical environmental feature described in this [article](#).
    - (a) Except as provided in Subsection (C)(1)(b), the width of the buffer zone is 150 feet from the edge of the critical environmental feature.
    - (b) For a point recharge feature, the buffer zone coincides with the topographically defined catchment basin, except that the width of the buffer zone from the edge of the critical environmental feature is:
      - (i) Not less than 150 feet;
      - (ii) Not more than 300 feet; and
      - (iii) Calculated in compliance with the Environmental Criteria Manual.
  - (2) Within a buffer zone described in this [subsection](#):
    - (a) The natural vegetative cover must be retained to the maximum extent practicable;
    - (b) Construction is prohibited, [except for restoration activities or the construction of educational trails as approved by the Watershed Director](#); and
    - (c) Wastewater disposal or irrigation is prohibited.
  - (3) If located at least 50 feet from the edge of the critical environmental feature, the prohibition of Subsection (C)(2)(b) does not apply to:
    - (a) A yard or hiking trail;
    - (b) A recharge basin approved [under](#) Section 23-3D-6030 (Water Quality Control and [Green Stormwater Infrastructure](#) Standards) that discharges to a point recharge feature; or
    - (c) An innovative runoff management practice approved [by the Watershed Director that is designed to address the standards of this section, enhance the recharge of groundwater and the discharge of springs, and maintain the function of critical environmental features](#).
  - (4) Perimeter fencing with not less than one access gate must be installed at the outer edge of the buffer zone for all point recharge features. The fencing must comply with the Standard Specifications Manual.
  - (5) The owner [must](#) maintain the buffer zone in compliance with standards in the Environmental Criteria Manual to preserve the water quality function of the buffer.
  - (6) All critical environmental feature locations and required setbacks must be shown on preliminary subdivision plans, site plans, or other permits as determined by the director.
  - (7) All critical environmental feature locations must be shown on final plats.
- (D) When voids in the rock substrate are uncovered during development, the following protocol must be followed:
- (1) Construction in the area of the void must cease while the applicant conducts a preliminary investigation of the void as prescribed in the Environmental Criteria Manual.

- (2) The applicant **must** contact a City **environmental inspector** to schedule further investigation by the City of the void as prescribed in the Environmental Criteria Manual if the preliminary investigation indicates that the void:
  - (a) Is at least one square foot in total area;
  - (b) Blows air from within the substrate;
  - (c) Consistently receives water during any rain event; or
  - (d) Potentially transmits groundwater.
- (3) Construction may only proceed after mitigation measures are reviewed and approved by the Watershed **Director**.

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### **23-3D-5040 Wetland Protection**

- (A) Wetlands must be protected in all watersheds except in the area bounded by Interstate Highway 35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.
- (B) Protection methods for wetlands include:
  - (1) Appropriate setbacks that preserve the wetlands or wetland functions;
  - (2) Wetland mitigation, including wetland replacement;
  - (3) Wetland restoration or enhancement; or
  - (4) Use of wetlands for water quality controls.
- (C) The Watershed **Director** may approve:
  - (1) The removal and replacement of a wetland; or
  - (2) The elimination of setbacks from a wetland that is proposed to be used as a water quality control.

# Division 23-3D-6: Water Quality Control and Green Stormwater Infrastructure Standards

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## Contents

23-3D-6010	Applicability of Water Quality Control Standards . . . . .	1
23-3D-6020	Previous Waivers and Special Exceptions . . . . .	1
23-3D-6030	Water Quality Control and Green Stormwater Infrastructure Standards . . . . .	2
23-3D-6040	Optional Payment Instead of Structural Controls in Urban Watersheds . . . . .	3
23-3D-6050	Optional Payment Instead of Structural Controls in Suburban Watersheds . . . . .	3
23-3D-6060	Cost Recovery Program . . . . .	3
23-3D-6070	Water Quality Control Maintenance And Inspection . . . . .	4
23-3D-6080	Dedicated Fund . . . . .	4
23-3D-6090	Barton Springs Zone Operating Permit . . . . .	5
23-3D-6100	Fiscal Security In The Barton Springs Zone . . . . .	6

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## 23-3D-6010 Applicability of Water Quality Control Standards

- (A) In the Barton Springs Zone, water quality controls are required for all development.
- (B) In a watershed other than a Barton Springs Zone watershed, water quality controls are required for development:
  - (1) Located in the water quality transition zone;
  - (2) Of a golf course, play field, or similar recreational use, if fertilizer, herbicide, or pesticide is applied; or
  - (3) If the total of new and redeveloped impervious cover exceeds 8,000 square feet.
- (C) All new development must provide for removal of floating debris from stormwater runoff.
- (D) The water quality control standards in this division do not require water quality controls on a single-family or two-family lot but apply to the residential subdivision as a whole.
- (E) The water quality control standards in this division do not require water quality controls for a roadway improvement with less than 8,000 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.

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## 23-3D-6020 Previous Waivers and Special Exceptions

Water quality controls in compliance with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards) are required for a commercial, civic, industrial, or multi-family development with more than 20 percent impervious cover that has been granted a waiver of previous water quality standards or a special exception under this article.

## 23-3D-6030 Water Quality Control and Green Stormwater Infrastructure Standards



- (A) A water quality control must achieve the load reduction standards prescribed in the Environmental Criteria Manual.
- (B) A water quality control must capture and treat the water draining to the control from the contributing area. The required capture volume is the first one-half inch of runoff and an additional one-tenth of an inch of runoff for each 10 percent increase in impervious cover over 20 percent for the contributing area.
- (C) A water quality control must be designed in compliance with the Environmental Criteria Manual and must be accessible for maintenance and inspection.
- (D) The required water quality treatment must be provided using green stormwater control measures, as prescribed in the Environmental Criteria Manual.
- (E) Notwithstanding Subsection (D), all or part of the required water quality treatment may be provided using other water quality controls for:
  - (1) Residential subdivisions;
  - (2) Areas with land uses or activities that may generate highly contaminated runoff, as prescribed in the Environmental Criteria Manual;
  - (3) A project that provides water quality treatment for currently untreated, developed off-site areas of at least 10 acres in size; or
  - (4) Sites with greater than 80 percent gross site area impervious cover that install a rainwater harvesting system sized to meet the on-site demand for landscape irrigation as demonstrated by a water balance in compliance with the Environmental Criteria Manual.
- (F) The location of a water quality control:
  - (1) Must avoid recharge features to the greatest extent possible;
  - (2) Must be shown on the slope map, preliminary plan, site plan, or subdivision construction plan, as applicable; and
  - (3) In a water supply rural watershed, may not be in the 40 percent buffer zone, unless the control disturbs less than 50 percent of the buffer, and is located to maximize overland flow and recharge in the undisturbed remainder of the 40 percent buffer zone.
- (G) An impervious liner is required for structural water quality controls over the Edwards Aquifer Recharge Zone. If a liner is required and there are multiple controls in series, liners are only required for the first control in the series.
- (H) Approval by the Watershed Director is required for a proposed water quality control that is not described in the Environmental Criteria Manual. The applicant must substantiate the pollutant removal efficiency of the proposed control with published literature or a verifiable engineering study. Review and approval is based on:
  - (1) Technical merit;
  - (2) Compliance with the standards of this article for water quality protection and improvement;
  - (3) Resource protection and improvement;
  - (4) Advantages over standard practices; and

- (5) Anticipated maintenance requirements.
- (l) In the Barton Springs Zone, stormwater controls must be placed in sequence if necessary to remove the required amount of pollutant. The sequence of controls must be:
  - (1) Based on the Environmental Criteria Manual or generally accepted engineering principles; and
  - (2) Designed to minimize maintenance requirements.

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### 23-3D-6040 Optional Payment Instead of Structural Controls in Urban Watersheds

- (A) The Watershed Director shall identify and prioritize water quality control facilities for the Urban watersheds in an Urban Watersheds Structural Control Plan.
- (B) An Urban Watersheds Structural Control Fund is established for use in the design and construction of water quality control facilities in the Urban watersheds.
- (C) Instead of providing the water quality controls required by Section 23-3D-6010 (Applicability of Water Quality Control Standards), in an Urban watershed an applicant may request approval to deposit with the City a nonrefundable cash payment. The director shall review the request and approve or disapprove the request based on the standards in the Environmental Criteria Manual.
- (D) The director shall deposit a payment made under this section in the Urban Watersheds Structural Control Fund.

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### 23-3D-6050 Optional Payment Instead of Structural Controls in Suburban Watersheds

- (A) A Suburban Watersheds Structural Control Fund is established for use in the design and construction of water quality control facilities in the Suburban watersheds.
- (B) Instead of providing the water quality controls required by Section 23-3D-6010 (Applicability of Water Quality Control Standards), in a Suburban watershed an applicant may request approval to deposit with the City a nonrefundable cash payment. The director shall review the request and approve or disapprove the request based on the standards in the Environmental Criteria Manual. To be eligible to request the optional payment, the development must:
  - (1) Be located within the zoning jurisdiction;
  - (2) Be a residential subdivision less than two acres in size; and
  - (3) Demonstrate exemption from the preliminary plan standard as determined by Section 23-5B-2010 (Preliminary Plan Requirement).
- (C) The director shall deposit a payment made under this section in the Suburban Watersheds Structural Control Fund.

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### 23-3D-6060 Cost Recovery Program

- (A) An applicant who redevelops property in an Urban watershed and is required to construct a water quality control may qualify for cost participation by the City for:

- (1) Construction of the water quality control; or
- (2) Optional payment instead of construction of the water quality control **under** Section 23-3D-6040 (Optional Payment Instead of Structural Controls In Urban Watersheds).

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## 23-3D-6070 Water Quality Control Maintenance And Inspection

- (A) For a commercial, civic, industrial, or multi-family development:
  - (1) The record owner of the development **must** maintain the water quality control serving the development in compliance with the Environmental Criteria Manual, whether or not the control is located on the same property as the development. The record owner **must** provide the City proof of the right to access and maintain the control if it is not located on the same property as the development.
  - (2) If more than one development is served by a single water quality control, the record owners of the control and all developments served by the control **must** be jointly and severally responsible for maintenance of the control in compliance with the Environmental Criteria Manual.
  - (3) The City shall inspect each water quality control that is not a subsurface control at least once every three years to ensure that the control is being maintained in compliance with the Environmental Criteria Manual. If the control fails inspection requiring an additional inspection, the **Watershed Director** may charge a re-inspection fee.
  - (4) The record owner of a subsurface water quality control **must** provide the Watershed **Director** with a maintenance plan and an annual report from an engineer verifying that the control is in proper operating condition.
- (B) For a **two-family** or single-family development:
  - (1) The City shall be responsible for maintenance of a water quality control only after the control has been accepted for maintenance by the City.
  - (2) The City will accept a water quality control for maintenance upon determining that it meets all standards of the Environmental Criteria Manual and, if applicable, Section 23-3D-6100 (Fiscal Security In The Barton Springs Zone).
  - (3) Until the City accepts a water quality control for maintenance, the record owner(s) of the control and the development served **must** maintain the control in compliance with the Environmental Criteria Manual.
- (C) The Watershed **Director** may authorize an alternative arrangement for maintenance of a water quality control in compliance with the Environmental Criteria Manual. If an alternative arrangement is approved by the **Watershed Director**, the City Attorney shall determine whether an agreement is necessary; the agreement must be approved by the City Attorney and filed of record.

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## 23-3D-6080 Dedicated Fund

- (A) The Finance Department shall establish a dedicated fund to:
  - (1) Monitor water quality controls; and

- (2) Maintain water quality controls for single-family and two-family residential development.
- (B) An applicant **must** pay the required fee into the fund:
  - (1) For development that does not require a site plan, when the applicant posts fiscal security for the subdivision or requests that the director record the subdivision plat, whichever occurs first; or
  - (2) For development that requires a site plan, when the site plan is approved.
- (C) The Watershed **Director** shall administer the fund, allocate the fund for appropriate projects, and report annually to the Council regarding the status of the fund and the monitoring and maintenance program described in this **section**.

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### 23-3D-6090 Barton Springs Zone Operating Permit

- (A) In the Barton Springs Zone, the owner or operator of a commercial, civic, industrial, or multi-family development is required to obtain an annual operating permit for the required water quality controls.
- (B) To obtain an annual operating permit, an applicant **must**:
  - (1) Provide the Development Services Department with:
    - (a) A maintenance plan; and
    - (b) The information necessary to verify that the water quality controls are in proper operating condition; and
  - (2) Pay the required, nonrefundable fee.
- (C) The Development Services Department may verify that a water quality control is in proper operating condition by either inspecting the water quality control or accepting a report from an engineer.
- (D) The Development Services Department shall issue an operating permit after determining that:
  - (1) The applicant has complied with the standards of Subsection (B); and
  - (2) The water quality controls are in proper operating condition.
- (E) The Development Services **Director** shall transfer an operating permit to a new owner or operator if, not later than 30 days after a change in ownership or operation, the new owner or operator:
  - (1) Signs the operating permit;
  - (2) Accepts responsibility for the water quality controls; and
  - (3) Documents the transfer on a form provided by the Development Services Department.

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**23-3D-6100 Fiscal Security In The Barton Springs Zone**

- (A) For development in the Barton Springs Zone, an applicant **must** provide the City with fiscal security to ensure that water quality controls are maintained properly. The director shall calculate the amount of fiscal security in compliance with the formula in the Environmental Criteria Manual.
- (B) The director may not return the fiscal security to the applicant until:
  - (1) The expiration of one year after the completion of the development; and
  - (2) The director receives verification that the controls are constructed in compliance with the approved design by:
    - (a) The applicant's delivery of a certified engineering concurrence letter; and
    - (b) A report from a City inspector.

# Division 23-3D-7: Erosion and Sedimentation Control

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## Contents

23-3D-7010	Erosion and Sedimentation Control . . . . .	1
23-3D-7020	Development Completion . . . . .	1
23-3D-7030	Modification of Erosion Control and Construction Sequencing Plans . . . . .	1
23-3D-7040	Additional Erosion and Sedimentation Control Standards in the Barton Springs Zone . . . . .	2
23-3D-7050	Temporary Storage Areas; Topsoil Protection . . . . .	2
23-3D-7060	Fiscal Surety . . . . .	3

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## 23-3D-7010 Erosion and Sedimentation Control

- (A) Temporary erosion and sedimentation controls:
  - (1) Are required for all development until permanent revegetation has been established; and
  - (2) Must be removed after permanent revegetation has been established.

---

## 23-3D-7020 Development Completion

- (A) Development is not completed until:
  - (1) Permanent revegetation is established; and
  - (2) The Development Services Department:
    - (a) Receives the engineer’s concurrence letter; and
    - (b) Certifies installation of the vegetation for acceptance.
- (B) Development must be completed in compliance with Subsection (A) before the City may accept maintenance responsibility for streets, drainage facilities, or utilities, or issue a certificate of occupancy or compliance, unless the City and the applicant enter into an agreement to ensure completion of the revegetation within a named period.

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## 23-3D-7030 Modification of Erosion Control and Construction Sequencing Plans

- (A) 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
  - (2) After two days written notice to the permit holder, if:
    - (a) The inspector determines that an erosion control or the construction sequencing is inappropriate or inadequate; and

- (b) The director has confirmed in writing the inspector's determination.

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### **23-3D-7040 Additional Erosion and Sedimentation Control Standards in the Barton Springs Zone**

- (A) This **section** provides additional erosion and sedimentation control standards for development in the Barton Springs Zone.
- (B) A temporary erosion and sedimentation control plan and a water quality plan certified by an engineer and approved by the Development Services Department is required.
  - (1) The plans must describe the temporary structural controls, site management practices, or other approved methods that will be used to control off-site sedimentation until permanent revegetation is certified as completed **under** Section 23-3D-7020 (Development Completion).
  - (2) The temporary erosion control plan must be phased to be effective at all stages of construction. Each temporary erosion control method must be adjusted, maintained, and repaired as necessary.
- (C) The Development Services Department may require a modification of the temporary erosion control plan after determining that the plan does not adequately control off-site sedimentation from the development. Approval by the Development Services Department and the engineer who certified the plan is required for a major modification of the plan.
- (D) The applicant **must** designate a project manager who is responsible for compliance with the erosion and sedimentation control and water quality plan standards during development.
- (E) The length of time between clearing and final revegetation of development may not exceed 18 months, unless extended by the director.
- (F) If an applicant does not comply with the deadline in Subsection (E), or does not adequately maintain the temporary erosion and sedimentation controls, the director shall notify the applicant in writing that the City will repair the controls or revegetate the disturbed area at the applicant's expense unless the work is completed or revegetation is begun not later than the 15th day after the date of the notice.
- (G) A person commits an offense if the person allows sediment from a construction site to enter a waterway by failing to maintain erosion controls or failing to follow the approved sequence of construction.

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### **23-3D-7050 Temporary Storage Areas; Topsoil Protection**

- (A) The site plan or subdivision construction plan must designate the areas to be cleared for temporary storage of spoils or construction equipment. Areas cleared for temporary storage must be located and restored in compliance with the Environmental Criteria Manual.
- (B) During and after site grading and construction operations, the topsoil must be protected and vegetation left in place to the maximum extent practicable in compliance with the Environmental Criteria Manual.



- (C) For areas on the site that are to remain pervious post-development, any soils that are compacted during site grading and construction operations must be decompacted in compliance with the Environmental Criteria Manual and the Standard Specifications Manual.

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## 23-3D-7060 Fiscal Surety

A site plan may be approved only if the applicant provides fiscal surety, consistent with the requirements of Section 23-2B-3020 (Fiscal Surety), for:

- (1) Installing and maintaining erosion and sedimentation controls throughout construction on the site;
- (2) Revegetating the site; and
- (3) Performing on-site and off-site cleanup.

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# Division 23-3D-8: Additional Standards in All Watersheds

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## Contents

23-3D-8010	Overland Flow	1
23-3D-8020	Interbasin Diversion	1
23-3D-8030	Construction on Slopes	2
23-3D-8040	Clearing of Vegetation	3
23-3D-8050	Clearing for a Roadway	3
23-3D-8060	Cut Standards	4
23-3D-8070	Fill Standards	4
23-3D-8080	Spoil Disposal	5
23-3D-8090	Blasting Prohibited	5
23-3D-8100	Wastewater Restrictions	6
23-3D-8110	Storm Sewer Discharge	6
23-3D-8120	Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long	6
23-3D-8130	Threatened or Endangered Species Notification	7

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## 23-3D-8010 Overland Flow

- (A) Drainage patterns must be designed as prescribed in the Environmental Criteria Manual to:
  - (1) Prevent erosion;
  - (2) Maintain and restore infiltration and recharge of local seeps and springs;
  - (3) Attenuate the harm of contaminants collected and transported by stormwater; and
  - (4) Where possible, disconnect impervious cover, maintain and restore overland sheet flow, maintain natural drainage features and patterns, and disperse runoff back to sheet flow.
- (B) Where applicable, the applicant **must** design an enclosed storm drain to mitigate potential adverse **water quality** impacts by using methods to prevent erosion and dissipate discharges from outlets. Applicant **must** locate discharges to maximize overland flow through buffer zones or grass-lined swales wherever practicable.

---

## 23-3D-8020 Interbasin Diversion

- (A) Development may not divert stormwater from one watershed to another, except as authorized by this **section**.
- (B) A proposed diversion of less than 20 percent of the site based on gross site area or less than one acre, whichever is smaller, may be allowed if the applicant demonstrates that:

- (1) Existing drainage patterns are maintained to the extent feasible; and
- (2) There are no adverse **water quality** or drainage impacts.

---

## 23-3D-8030 Construction on Slopes

- (A) The standards of this **section** do not apply in an Urban watershed.
- (B) Construction of a Roadway or Driveway
  - (1) An applicant may not construct a roadway or driveway on a slope with a gradient of more than 15 percent unless the construction is necessary to provide primary access to:
    - (a) At least two contiguous acres with a gradient of 15 percent or less; or
    - (b) Building sites for at least five residential units.
  - (2) For construction described in this **subsection**, a cut or fill must be revegetated, or if a cut or fill has a finished gradient of more than 33 percent, stabilized with a permanent structure. This does not apply to a stable cut.
- (C) Construction of a Building or Parking Area
  - (1) An applicant may not construct:
    - (a) A building or parking structure on a slope with a gradient of more than 25 percent; or
    - (b) Except for a parking structure, a parking area on a slope with a gradient of more than 15 percent.
  - (2) An applicant may construct a building or parking structure on a slope with a gradient of more than 15 percent and not more than 25 percent if the standards of this **subsection** are met.
    - (a) Impervious cover on slopes with a gradient of more than 15 percent may not exceed 10 percent of the total area of the slopes.
    - (b) The terracing techniques in the Environmental Criteria Manual are required for construction that is uphill or downhill of a slope with a gradient of more than 15 percent.
    - (c) Hillside vegetation may not be disturbed except as necessary for construction, and disturbed areas must be restored with native and adapted vegetation as prescribed in the Environmental Criteria Manual.
    - (d) For construction described in this **subsection**, a cut or fill must be revegetated, or if a cut or fill has a finished gradient of more than 33 percent, stabilized with a permanent structure. This does not apply to a stable cut.
- (D) Subdivision Notes
  - (1) A preliminary subdivision plan that proposes a single family residential lot on a slope with a gradient of more than 15 percent must include a plan note identifying the lot and describing the standards of Subsection (D)(2).
  - (2) A final plat that proposes a single family residential lot on a slope with a gradient of more than 15 percent must include a plat note:

- (a) Identifying the lot; and
- (b) Stating the impervious cover and construction standards for the lot.

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### 23-3D-8040 Clearing of Vegetation

- (A) Clearing of vegetation is prohibited unless the director determines that the clearing:
  - (1) Is in compliance with a released site plan or subdivision construction plan;
  - (2) Is allowed **under** this **section** or Section 23-3D-8050 (Clearing for a Roadway); or
  - (3) Is not development, as that term is defined in Division 23-2M-1 (Terms).
- (B) Clearing of vegetation for agricultural **operations** is prohibited if an application to develop for a non-agricultural use has been granted or is pending. The director may waive this prohibition after determining that the clearing has a bona fide agricultural purpose and is unrelated to the proposed development or sale of the land for non-agricultural uses.
- (C) An applicant may clear an area up to 15 feet wide or remove a tree with a diameter of not more than eight inches to perform surveying or geologic testing in preparation for site plan or final plat approval.

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### 23-3D-8050 Clearing for a Roadway

- (A) An applicant may clear an area for road construction after site plan or final plat approval in compliance with this **section**.
- (B) Roadway clearing width may not exceed:
  - (1) Twice the roadway surface width, or the width of the dedicated right-of-way, whichever is less; or
  - (2) For road construction problem areas of less than 300 feet in length, two and one-half times the roadway width.
- (C) The director may grant an administrative **modification** to Subsection (B) if required by unusual topographic conditions.
- (D) If clearing on slopes could result in materials sliding onto areas beyond the clearing widths described in Subsection (B), retaining walls or other preventative methods are required.
- (E) The length of time between rough cutting and final surfacing of roadways may not exceed 18 months.
- (F) If the applicant does not meet the deadline described in Subsection (E), the City shall notify the applicant in writing that the City will finish the roadways or revegetate the disturbed area at the applicant's expense unless the work is completed not later than the 60th day after the date of the notice.

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**23-3D-8060 Cut Standards**

- (A) Cuts on a tract of land may not exceed four feet of depth, except:
- (1) In an Urban watershed;
  - (2) In a roadway right-of-way;
  - (3) For construction of a building foundation or swimming pool, excluding the surrounding pool deck;
  - (4) For construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if:
    - (a) The design and location of the facility within the site minimize the amount of cut over four feet;
    - (b) The cut is the minimum necessary for the appropriate functioning of the facility; and
    - (c) The cut is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;
  - (5) For utility construction or a wastewater drain field, if the area is restored to natural grade; or
  - (6) In a state-permitted sanitary landfill or a sand or gravel excavation located in the extraterritorial jurisdiction, if:
    - (a) The cut is not in a critical water quality zone;
    - (b) The cut does not alter a 100-year floodplain;
    - (c) The landfill or excavation has an erosion and restoration plan approved by the City; and
    - (d) All other applicable City Code provisions are met.
- (B) A cut must be restored and stabilized.
- (C) A roadway cut must be contained within the roadway clearing width described in Section 23-3D-8050 (Clearing for a Roadway).

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**23-3D-8070 Fill Standards**

- (A) Fill on a tract of land may not exceed four feet of depth, except:
- (1) In an Urban watershed;
  - (2) In a roadway right-of-way;
  - (3) Under a foundation with sides perpendicular to the ground, or with pier and beam construction;
  - (4) For construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if:
    - (a) The design and location of the facility within the site minimize the amount of fill over four feet;

- (b) The fill is the minimum necessary for the appropriate functioning of the facility; and
  - (c) The 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 utility construction or a wastewater drain field; or
- (6) In a state-permitted sanitary landfill located in the extraterritorial jurisdiction, if:
  - (a) The fill is derived from the landfill operation;
  - (b) The fill is not placed in a critical water quality zone or a 100-year floodplain;
  - (c) The landfill operation has an erosion and restoration plan approved by the City; and
  - (d) All other applicable City Code provisions are met.
- (B) A fill area must be restored and stabilized.
- (C) Fill for a roadway must be contained within the roadway clearing width described in Section 23-3D-8050 (Clearing for a Roadway).

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### **23-3D-8080 Spoil Disposal**

- (A) A spoil disposal site may not be located in a 100-year floodplain or on a slope with a gradient of more than 15 percent.
- (B) The location of a spoil disposal site must be reasonably accessible. An access route:
  - (1) Must use existing and approved roadways, if possible; and
  - (2) May not be located in a waterway, unless:
    - (a) A reasonable alternative is not available; or
    - (b) The access route is for the construction of a water quality control.
- (C) A spoil disposal site and an access route must be restored and revegetated in compliance with the Environmental Criteria Manual.

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### **23-3D-8090 Blasting Prohibited**

- (A) Blasting on property located in the Edwards Aquifer recharge zone is prohibited in a critical water quality zone or a water quality transition zone, unless the applicant demonstrates that a feasible alternative does not exist.
- (B) Blasting is prohibited within 300 feet of a critical environmental feature, unless the applicant demonstrates that a feasible alternative does not exist.

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### 23-3D-8100 Wastewater Restrictions

- (A) A lot in the Edwards Aquifer recharge zone with private on-site sewage facilities must demonstrate compliance with City Code Chapter 15-5 (Private Sewage Facilities).
- (B) Land application of treated wastewater effluent is prohibited:
  - (1) On a slope with a gradient of more than 15 percent;
  - (2) In a critical water quality zone;
  - (3) In a 100-year floodplain;
  - (4) On the trunk of trees required to be surveyed as prescribed in the Environmental Criteria Manual;
  - (5) In the buffer zone established around a critical environmental feature under Section 23-3D-5030 (Critical Environmental Features); or
  - (6) During wet weather conditions.

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### 23-3D-8110 Storm Sewer Discharge

A certificate of occupancy may not be issued for development subject to this article unless the development is in compliance with Chapter 6-5, Article 5 (Discharges Into Storm Sewers Or Watercourses).

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### 23-3D-8120 Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long

- (A) The standards of this section apply to development on or adjacent to Lake Austin, Lady Bird Lake, or Lake Walter E. Long.
- (B) Except as otherwise provided by this section, placing fill or dredging in a lake is prohibited.
- (C) A retaining wall, bulkhead, or other erosion protection device may not capture or recapture land from a lake unless doing so is required to restore the shoreline to whichever of the following boundaries would encroach the least into the lake:
  - (1) The shoreline as it existed 10 years prior to the date of application, with documentation as prescribed in the Environmental Criteria Manual; or
  - (2) The lakeside boundary of the subdivided lot line.
- (D) A bulkhead may be replaced in front of an existing bulkhead once, if:
  - (1) The existing bulkhead was legally constructed;
  - (2) Construction of the replacement bulkhead does not change the location of the shoreline by more than six inches; and
  - (3) The Watershed Director determines that there is no reasonable alternative to replacement of the bulkhead in the location of the existing bulkhead.
- (E) The director may approve up to 25 cubic yards of dredging in a lake if the dredging is necessary for navigation safety.

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**23-3D-8130 Threatened or Endangered Species Notification**

- (A) This section applies in areas of the planning jurisdiction that may contain habitat for federally listed threatened or endangered species, as defined in the Environmental Criteria Manual.
- (B) On submission of an application for a subdivision or site plan in an area described in Subsection (A), the applicant must give notice of the application to the appropriate authority, including:
  - (1) United States Fish and Wildlife Service;
  - (2) Texas Parks and Wildlife Department;
  - (3) Balcones Canyonlands Conservation Plan Coordinating Committee Secretary; and Travis or Williamson County, as applicable.
- (C) The notice must include a statement that the development could cause the loss of threatened or endangered species habitat.

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# Division 23-3D-9: Save Our Springs Initiative

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## Contents

23-3D-9010	Title and Purpose . . . . .	1
23-3D-9020	Amendment . . . . .	1
23-3D-9030	Declaration of Intent . . . . .	1
23-3D-9040	Pollution Prevention Required . . . . .	2
23-3D-9050	No Exemptions, Special Exceptions, Waivers or Variances . . . . .	2
23-3D-9060	Application to Existing Tracts, Platted Lots, and Public Schools . . . . .	2
23-3D-9070	Expiration of Prior Approvals . . . . .	3
23-3D-9080	Limited Adjustment to Resolve Possible Conflicts with Other Laws . . . . .	4
23-3D-9090	Construction of Ordinance . . . . .	4
23-3D-9100	Reduce Risk of Accidental Contamination . . . . .	4
23-3D-9110	Efficient and Cost-Effective Water Quality Protection Measures . . . . .	5
23-3D-9120	Severability . . . . .	5
23-3D-9130	Adoption of Water Quality Measures . . . . .	5

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## 23-3D-9010 Title and Purpose

- (A) This division, to be known as the Save Our Springs Initiative, (SOS hereafter) sets out special requirements for development of land in watersheds within the City’s planning jurisdiction which contribute to Barton Springs.
- (B) This division codifies the Save Our Springs Initiative Petition Ordinance as adopted by popular vote on August 8, 1992 and amended by the council.

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## 23-3D-9020 Amendment

This division may be repealed or amended only by an affirmative vote of a three-quarters majority of the city council.

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## 23-3D-9030 Declaration of Intent

The people of the City declare their intent to preserve a clean and safe drinking water supply, to prevent further degradation of the water quality in Barton Creek, Barton Springs, and the Barton Springs Edwards Aquifer, to provide for fair, consistent, and cost effective administration of the City’s watershed protection ordinances, and to promote the public health, safety, and welfare. The City recognizes that the Barton Springs Edwards Aquifer is more vulnerable to pollution from urban development than any other major

groundwater supply in Texas, and that the measures set out in this division are necessary to protect this irreplaceable natural resource.

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### **23-3D-9040    Pollution Prevention Required**

- (A) In the watersheds contributing to Barton Springs, no development nor any revision, extension, or amendment thereof, may be approved unless it is designed, carried out, and maintained on a site-by-site basis to meet the pollution prevention requirements set forth below for the life of the project. In order to prevent pollution, impervious cover for all such development must be limited to a maximum of 15 percent in the entire recharge zone, 20 percent of the contributing zone within the Barton Creek watershed, and 25 percent in the remainder of the contributing zone. The impervious cover limits shall be calculated on a net site area basis. In addition, runoff from such development shall be managed through water quality controls and on-site pollution prevention and assimilation techniques so that no increases occur in the respective average annual loadings of total suspended solids, total phosphorus, total nitrogen, chemical oxygen demand, total lead, cadmium, E. coli, volatile organic compounds, pesticides, and herbicides from the site. For a given project, impervious cover shall be reduced if needed to assure compliance with these pollutant load restrictions.
- (B) Within the watersheds contributing to Barton Springs, Section 23-3D-4020 (Critical Water Quality Zones Established) of the Land Development Code is amended so that in no event shall the boundary of the critical water quality zone be less than 200 feet from the centerline of a major waterway or be less than 400 feet from the centerline of the main channel of Barton Creek. No pollution control structure, or residential or commercial building, may be constructed in the critical water quality zone in these watersheds.

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### **23-3D-9050    No Exemptions, Special Exceptions, Waivers or Variances**

The requirements of this division are not subject to the exemptions, special exceptions, waivers, or variances allowed by Division 23-3D-2 (Exceptions and Variances). Adjustments to the application of this division to a specific project may be granted only as set out in Section 23-3D-9080 (Limited Adjustment To Resolve Possible Conflicts With Other Laws) below.

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### **23-3D-9060    Application to Existing Tracts, Platted Lots, and Public Schools**

- (A) This division does not apply to development on a single platted lot or a single tract of land that is not required to be platted before development if the lot or tract existed on November 1, 1991 and the development is either:
  - (1) Construction, renovation, additions to, repair, or development of a single-family, single-family attached, or a duplex structure used exclusively for residential purposes, and construction of improvements incidental to that residential use; or
  - (2) Development of a maximum of 8,000 square feet of impervious cover, including impervious cover existing before and after the development.

- (B) This division does not apply to development of public primary or secondary educational facilities if the City and the school district enter into a development agreement approved by a three-quarters vote of the city council protecting water quality pursuant to Section 13-2-502(n)(7) of the Land Development Code.
- (C) This division does not apply to the replacement of development which is removed as a result of right-of-way condemnation.
- (D) This division does not apply to a roadway **improvement** with less than 8,000 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.

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### 23-3D-9070 Expiration of Prior Approvals

- (A) Within the watersheds contributing to Barton Springs, the following provisions shall govern the expiration of certain prior approvals:
  - (1) Previously Approved Preliminary Subdivision Plan:
    - (a) Unless it has or will have expired sooner, a preliminary subdivision plan initially approved before the effective date of this division expires one year after the effective date of this division, or two years after its initial approval whichever date is later, unless an application for final plat approval is filed before this expiration date and a final plat is approved no later than 180 days after filing.
    - (b) No approved preliminary plan, and no portion of an approved preliminary plan, shall be valid or effective after the expiration date established by this part, or shall be extended, revised, or renewed to remain effective after the expiration date, except according to Subsection (3) of this section.
  - (2) Previously Approved Site Plan:
    - (a) Unless it has or will have expired sooner, a site plan or phase or portion thereof initially approved before the effective date of this division shall expire one year after the effective date of this division, or three years after its initial approval, whichever date is later, unless:
      - (i) An application is filed before this expiration date for building permits for all structures shown on the site plan or phase or portion thereof and designed for human occupancy, and the building permits are approved and remain valid and certificates of occupancy are issued no later than two years after this expiration date; or
      - (ii) If no building permits are required to construct the structures shown on a site plan described in Subsection (2)(a) of this section, construction begins on all buildings shown on the site plan or portion or phase thereof before this expiration date, and the buildings are diligently constructed and completed, and certificates of compliance or certificates of occupancy are issued no later than two years after this expiration date.
    - (b) No approved site plan, and no separate phase or portion of an approved site plan, shall be valid or effective after the expiration date established by this part, or shall be extended, revised, or renewed to remain effective after the expiration date, except according to Subsection (3) of this section.

- (3) Approved Plans Which Comply: An approved preliminary subdivision plan, portion of a preliminary plan, approved site plan, or separate phase or portion of an approved site plan that complies with this division or that is revised to comply with this division does not expire under Subsection (1) or (2) of this section and remains valid for the period otherwise established by law.

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### **23-3D-9080 Limited Adjustment to Resolve Possible Conflicts with Other Laws**

- (A) This division is not intended to conflict with the United States Constitution or the Texas Constitution or to be inconsistent with federal or state statutes that may preempt a municipal ordinance or the Austin City Charter.
- (B) The terms of this division shall be applied consistently and uniformly. If a three-quarters majority of the city council concludes, or a court of competent jurisdiction renders a final judgment concluding that this division, as applied to a specific development project or proposal violates a law described in Subsection (A) of this section, the city council may, after a public hearing, adjust the application of this division 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.

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### **23-3D-9090 Construction of Ordinance**

This division is intended to be cumulative of other City ordinances. In case of irreconcilable conflict in the application to a specific development proposal between a provision of this division and any other ordinance, the provision which provides stronger water quality controls on development shall govern. If a word or term used in this division is defined in the Austin City Code of 1981, as that code was in effect on November 1, 1991, that word or term shall have the meaning established by the Austin City Code of 1981 in effect on that date, unless modified in this division.

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### **23-3D-9100 Reduce Risk of Accidental Contamination**

Within one year of the effective date of this division the City of Austin Environmental and Conservation Services Department shall complete a study, with citizen input, assessing the risk of accidental contamination by toxic or hazardous materials of the Barton Springs Edwards Aquifer and other streams within the City and its extraterritorial jurisdiction. The assessment shall inventory the current and possible future use and transportation of toxic and hazardous materials in and through the City, and shall make recommendations for City actions to reduce the risk of accidental contamination of the Barton Springs Edwards Aquifer and of other water bodies. Within 60 days of completion of the study, and following a public hearing, the city council shall take such actions deemed necessary to minimize risk of accidental contamination of city waters by hazardous or toxic materials.

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**23-3D-9110 Efficient and Cost-Effective Water Quality Protection Measures**

In carrying out City efforts to reduce or remedy runoff pollution from currently developed areas or to prevent runoff pollution from currently developed or developing areas, the city council shall assure that funds for remedial, retrofit or runoff pollution prevention measures shall be spent so as to achieve the maximum water quality benefit, and shall assure that the need for future retrofit is avoided whenever feasible.

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**23-3D-9120 Severability**

If any provision, section, subsection, sentence, clause, or phrase of this division, or the application of the same to any person, property, or set of circumstances is for any reason held to be unconstitutional, void, or otherwise invalid, the validity of the remaining portions of this division shall not be affected by that invalidity; and all provisions of this division are severable for that purpose.

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**23-3D-9130 Adoption of Water Quality Measures**

The adoption of this division is not intended to preclude the adoption, at any time, by a majority vote of the city council of stricter water quality requirements upon development in the watersheds contributing to Barton Springs or of further measures to restore and protect water quality.

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# **Residential Development**

**KEY**

Green text = new or modified language for Draft 2.

Purple text = new or modified language for Draft 3.

# Article 23-2A: Purpose and Applicability

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## Contents

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### Division 23-2A-1: Purpose and Applicability

- 23-2A-1010 Purpose
  - 23-2A-1020 Applicability of Land Development Code
  - 23-2A-1030 Overview of Legislative and Administrative Approvals
- 

### Division 23-2A-2: Development Process

- 23-2A-2010 Order of Process
  - 23-2A-2020 Concurrent Applications
  - 23-2A-2030 Transfer of Approval
- 

### Division 23-2A-3: Residential Development Regulations

- 23-2A-3010 Purpose and Applicability
- 23-2A-3020 Review Authority
- 23-2A-3030 One to Two-Unit Residential
- 23-2A-3040 Three to Six-Unit Residential
- 23-2A-3050 Variances



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# Division 23-2A-1: Purpose and Applicability

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## Contents

23-2A-1010	Purpose . . . . .	1
23-2A-1020	Applicability of Land Development Code . . . . .	1
23-2A-1030	Overview of Legislative and Administrative Approvals. . . . .	2

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## 23-2A-1010 Purpose

- (A) The purpose of this chapter is to:
  - (1) Establish common **procedures and** requirements for the review and submittal of applications for development permits and other determinations authorized by the Land Development Code; and
  - (2) Provide an overview of the different categories of development permits and other administrative decisions established under this Title.
- (B) More detailed requirements for particular categories of permits and approvals may be found throughout this Title, as well as in administrative rules and policy memos adopted by the responsible director(s) listed in Table 23-1B-3020(A) (Designated Department and Areas of Expertise).

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## 23-2A-1020 Applicability of Land Development Code

- (A) Except as otherwise provided in this Title, the regulations of the Land Development Code apply as follows:
  - (1) Within the full-purpose jurisdiction, land use and development must comply with all applicable regulations of this Title;
  - (2) Within the extraterritorial jurisdiction, development must comply with all applicable regulations of:
    - (a) Chapter 23-2 (Administration and Procedures);
    - (b) Chapter 23-6 (Site Plan);
    - (c) Chapter 23-8 (Signage);
    - (d) **Chapter 23-12 (Airport Hazard)**;
    - (e) Chapter 23-5 (Subdivision), **Article 23-3D (Water Quality)**, and Chapter 23-10 (Infrastructure), except that Title 30 (Austin/Travis County Subdivision Regulations) applies to the portion of the City's extraterritorial jurisdiction located within Travis County;
    - (f) **Division 23-11B-4 (Electrical Code)**, for a structure served by the City's electric utility; and
    - (g) **Division 23-11B-6 (Plumbing Code)**, for a structure's water supply system(s) or waste water system when the system is served by the City's water utility.

- (3) Within the limited-purpose jurisdiction, land use and development must comply with Chapter 23-4 (Zoning), Article 23-3C (Urban Forest Protection and Replenishment), and the regulations applicable in the extraterritorial jurisdiction under Subsection (A) (2);
- (4) Within the full or limited-purpose jurisdiction, land use and development must comply with regulations applied through a development agreement approved under Division 23-2L-2 (General Development Agreements), in accordance with Texas Local Government Code, Chapters 43 and 212, Subchapter G.

**23-2A-1030 Overview of Legislative and Administrative Approvals**

- (A) **Purpose and Applicability.** This section provides an overview of the most significant categories of legislative, quasi-judicial, and administrative approvals established by the Land Development Code. Other approvals may also be required by this Title, depending on the nature and extent of a proposed development. For a description of the characteristics and features of the different categories of decisions, see Section 23-1A-3020 (Classification of Applications and Decisions).
- (B) **Overview Table.** Table (A) (Overview of Legislative, Quasi-Judicial, and Administrative Approvals) is intended as an aid for using the Land Development Code, but is superseded by other provisions of this Title in the event of a conflict:

Table 23-2A-1030(A) Overview of Legislative, Quasi-Judicial, and Administrative Approvals				
Approval Type	Section, Article or Division	Advisory Body	Decision Maker	Appeal
<b>Legislative Decisions</b>				
<b>Establishing Citywide Policies &amp; Requirements for Land Use and Development</b>				
Map amendments (rezones)	Division 23-4B-3	Land Use Commission	City Council	—
Text code amendments	Division 23-2E-1	Planning Commission	City Council	—
Comprehensive plan amendments	Section 23-2E-2020	Planning Commission	City Council	—
Neighborhood plan amendments	Section 23-2E-2030	Planning Commission	City Council	—

<b>Table 23-2A-1030(A) Overview of Legislative, Quasi-Judicial, and Administrative Approvals</b>				
<b>Approval Type</b>	<b>Section, Article or Division</b>	<b>Advisory Body</b>	<b>Decision Maker</b>	<b>Appeal</b>
<b>Quasi-Judicial Decisions</b>	<b>Determining Rights or Entitlements Based on Evidentiary Hearing and Discretionary Application or Interpretation of Code Requirements</b>			
Zoning variance	Section 23-4B-4020	—	Board of Adjustment	District Court
Special exception	Division 23-4B-4	Planning Director	Board of Adjustment	District Court
Administrative appeals re: zoning regulations	Article 23-2I	Planning Director	Board of Adjustment	District Court
Environmental variance	Section 23-3D-2060	Environmental Commission	Land Use Commission	—
Heritage tree variance	Section 23-3C-3040	Environmental Commission	Land Use Commission	—
Subdivision variance	Section 23-5B-1050	Development Services Director	Land Use Commission	—
Final plat or preliminary plan	Article 23-5B	Development Services Director	Land Use Commission	
Conditional use permit	Section 23-4B-1020	Development Services Director	Land Use Commission	City Council
Administrative appeals re: technical codes	Article 23-2I	Building Official	Building & Fire Code Board of Appeals	—
Limited adjustment	Division 23-2F-3	Watershed Director	City Council	—
Project consent agreement	Section 23-2K-2040	Development Services Director	City Council	—
<b>Administrative Decisions</b>	<b>Decisions Applying &amp; Interpreting the Land Development Code</b>			
<b>General Land Use Decisions</b>				
Nonconforming determination	Article 23-2G	—	Planning Director	Board of Adjustment
Code interpretation	Section 23-4B-2020	—	Planning Director	Board of Adjustment
Use determination	Section 23-4B-2030	—	Planning Director	Board of Adjustment
<b>Decisions Relating to Site Plan Applications and Special Approvals</b>				
Alternative equivalent compliance	Section 23-2F-2040	—	Development Services Director	—
Administrative environmental variance	Section 23-3D-2070	—	Watershed Director	—
Minor use permit	Section 23-4B-1030	—	Development Services Director	Land Use Commission
Temporary use permit	Section 23-4B-1050	—	Development Services Director	—
Site plan review	Chapter 23-6	—	Development Services Director	—

**Table 23-2A-1030(A) Overview of Legislative, Quasi-Judicial, and Administrative Approvals**

Approval Type	Section, Article or Division	Advisory Body	Decision Maker	Appeal
Sign permit	23-8A-2010	—	Director or Building Official	
<b>Decisions Regarding Applicability of Regulations</b>				
Residential exemption (amnesty)	Section 23-2F-2020	—	Development Services Director	—
Vested rights approvals	Division 23-2K-2	—	Development Services Director	—
Land status determination	Section 23-5A-1040	—	Development Services Director	—
<b>Subdivision Decisions</b>				
Preliminary plan	Division 23-5B-2	Development Services Director	Land Use Commission	—
Final plat	Division 23-5B-3	Development Services Director	Land Use Commission	—
Minor plats	Section 23-5B-3060	—	Development Services Director	—
Subdivision construction plan	Division 23-5B-5	—	Development Services Director	—
<b>Construction Level Permit Decisions</b>				
Building permit	Article 23-7B	—	Development Services Director	—
Certificate of occupancy or compliance	Division 23-2H-4	—	Development Services Director	—
Trade permits		—	Development Services Director	Building & Fire Code Board of Appeals
Demolition permit	Article 23-7B	—	Building Official	—
Relocation permit	Article 23-7C	—	Building Official	—

# Division 23-2A-2: Development Process

## Contents

23-2A-2010	Order of Process . . . . .	1
23-2A-2020	Concurrent Applications. . . . .	2
23-2A-2030	Transfer of Approval . . . . .	2

## 23-2A-2010 Order of Process

(A) If a proposed development requires two or more applications under this Title, higher level applications must be decided before subordinate applications. Applications should be decided in the following general sequence:

- (1) Legislative approvals:
  - (a) Comprehensive Plan amendments; and
  - (b) Zoning or rezoning.
- (2) Quasi-judicial approvals:
  - (a) Zoning variances and special exceptions;
  - (b) Environmental variances;
  - (c) Subdivisions and subdivision variances; and
  - (d) Conditional use permits.
- (3) Administrative approvals:
  - (a) Minor use permit;
  - (b) Site plan;
  - (c) Building permits; and
  - (d) Certificates of occupancy.

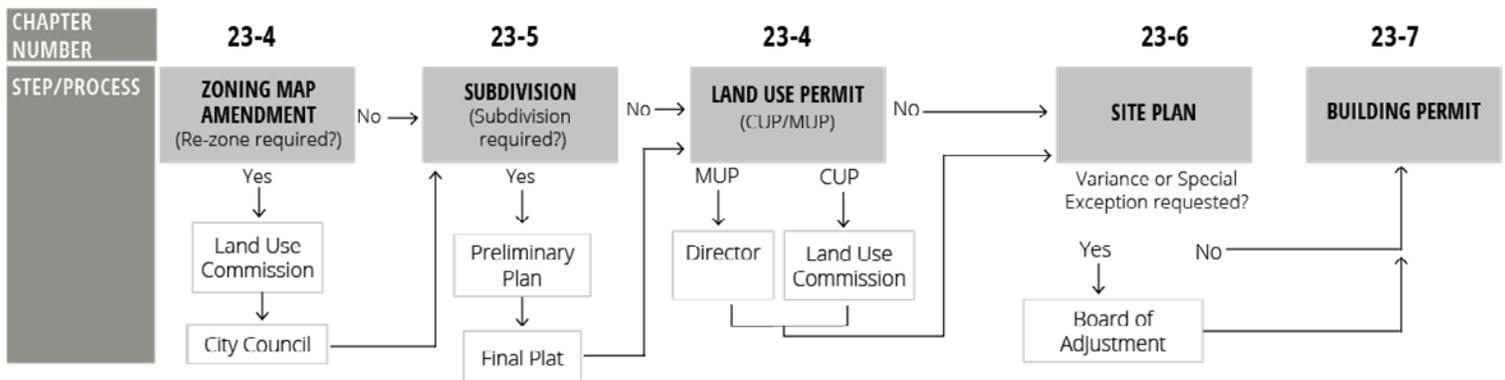


Figure 23-2A-2010 (1) Order of Process

- (B) The responsible director shall assign priority to different types of applications within the same category and require an applicant to obtain higher level approvals before subordinate approvals. If an application is not listed in Subsection (A), the responsible director shall prioritize it one level below the application type to which it is most similar.

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### **23-2A-2020**    **Concurrent Applications**

If a proposed development requires two or more approvals under this Title, the responsible director may allow the applications to be submitted concurrently. If concurrent applications are accepted, **the applications may only be** approved in the order established under Section 23-2A-2010 (Order of Process).

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### **23-2A-2030**    **Transfer of Approval**

A permit or other land use approval issued **under** this Title applies to the property or structure for which the approval was issued. If a permit or other approval issued **under** this Title grants a right to use or develop property, that right transfers with ownership of the land or structure for which the approval was issued.



# Division 23-2A-3: Residential Development Regulations

## Contents

23-2A-3010	Purpose and Applicability	1
23-2A-3020	Review Authority	1
23-2A-3030	One to Two-Unit Residential	1
23-2A-3040	Three to Six-Unit Residential	3
23-2A-3050	Variances	4

### 23-2A-3010 Purpose and Applicability

- (A) This division establishes regulations and review procedures applicable under the Land Development Code to residential development of one to six units per lot.
- (B) The purpose of this division is to account for the varying capacity of residential projects to comply with this Title and to better tailor applicable regulations and permit review procedures to a project’s overall scale and intensity. Recognizing the impacts that regulation may have on housing construction, this division seeks to moderate the costs associated with small-to-medium scale residential projects while still achieving meaningful compliance with this Title.

### 23-2A-3020 Review Authority

- (A) Authority and responsibility for implementing this division is delegated to the Development Services Director, which is referred to in this division as “the director.” However, the city manager may from time to time delegate particular functions under this division to one or more other City departments, which shall control over the general delegation in this subsection.
- (B) In exercising authority under this division, the director may consult with other City departments regarding issues within that department’s area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (Overview of City Departments).

### 23-2A-3030 One to Two-Unit Residential

- (A) **Applicability**
  - (1) This section specifies regulations and review procedures applicable under this Title to development associated with one to two residential units located on a lot or legal tract, except that development of a boat dock, bulkhead, or shoreline access is subject to all applicable requirements of this Title.
  - (2) One and two-unit residential development that is subject to this section is exempt from regulations of this Title not specified under this section.

- (B) **Review Procedures.** An application to construct, remodel, or expand one to two residential units under this section:
- (1) Is exempt from the requirement for site plan approval under Section 23-6A-2010 (Site Plan Exemptions), but must include a residential development plan sufficient to determine whether the proposed development complies with the regulations in Subsection (C); and
  - (2) An engineer's certification that any changes to existing drainage patterns will not negatively impact adjacent property if the construction, remodel, or expansion:
    - (a) Is more than 300 square feet; and
    - (b) Located on an unplatted tract or within a residential subdivision approved more than five years before the building permit application was submitted.
- (C) **Development Regulations.** An application for new construction, remodel, or expansion must comply with the requirements described in this subsection.
- (1) **Zoning.** Compliance with all applicable regulations of Chapter 23-4 (Zoning Code) or a separately adopted zoning ordinance is required, including limitations on impervious cover.
  - (2) **Drainage.** Compliance with the following regulations is required:
    - (a) Section 23-10E-1030 (Obstruction of Waterways Prohibited);
    - (b) Section 23-10E-1040 (Duty to Maintain Unobstructed Waterways);
    - (c) Section 23-10E-2020 (Director Authorized to Require Erosion Hazard Zone Analysis);
    - (d) Section 23-10E-2030 (Floodplain Maps, Delineation, and Depiction);
    - (e) Erosion hazard zone requirements in Section 23-10E-3010 (Criteria For Approval Of Development Applications);
    - (f) Division 23-10E-4 (Special Standards in Zoning Jurisdiction); and
    - (g) Section 23-10E-5020 (Dedication of Easements and Rights-Of-Way).
  - (3) **Waterway Setbacks**
    - (a) Except as provided in Subsection (C)(3)(b):
      - (i) For a legal tract or a lot platted on or after October 28, 2013, compliance with the waterway setback requirements established in Division 23-3D-4 (Waterway and Floodplain Protection);
      - (ii) For a lot platted on or after May 18, 1986, but before October 28, 2013, compliance with the waterway setback requirements in effect on October 27, 2013, which shall be specified in the Environmental Criteria Manual; and
    - (b) For all properties located within 75 feet of the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, or Lake Walter E. Long, compliance with the waterway setback requirements established in Division 23-3D-4 (Waterway and Floodplain Protection) is required.
  - (4) **Tree Protection.** Compliance with the applicable requirements of Division 23-3C-2 (Young Public, Keystone and Protected Trees) and Division 23-3C-3 (Heritage Trees) is required.

- (5) **Construction on Slopes.** For a legal tract or a lot platted on or after May 18, 1986, compliance with all applicable requirements of Section 23-3D-8030 (Construction on Slopes) is required.
- (6) **Cut and Fill Standards.** Compliance with all applicable requirements of Sections 23-3D-8060 (Cut Standards) and Section 23-3D-8070 (Fill Standards) is required.
- (7) **Erosion and Sedimentation.** Compliance with all applicable requirements of Division 23-3D-7 (Erosion and Sedimentation Control).
- (8) **Technical Codes.** Compliance with all applicable requirements of Chapter 23-12 (Technical Codes) is required.
- (9) **Plat Restrictions.** Compliance with municipal regulatory restrictions on a recorded plat or covenant is required, to the extent the restrictions are determined to apply.

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## 23-2A-3040 Three to Six-Unit Residential

### (A) Applicability

- (1) This section specifies regulations and review procedures applicable to development associated with three to six units on a platted residential lot, except that this section does not apply to development that:
  - (a) Includes a boat dock, bulkhead, or shoreline access;
  - (b) Exceeds 45 percent impervious cover;
  - (c) Is on a lot that was not originally part of a residential subdivision;
  - (d) Is located in the Barton Springs Zone; or
  - (e) Requires a variance from the Land Use Commission.
- (2) Three to six-unit residential development that is subject to this section is exempt from regulations of this Title not specified under this section.

### (B) Review Procedures. An application to construct, remodel, or expand three to six residential units under this section:

- (1) Is exempt from the requirement for site plan approval under Section 23-6A-2010 (Site Plan Exemptions), but must include a residential development plan sufficient to determine whether the proposed construction complies with the regulations in Subsection (C); and
- (2) Must include an engineer's certification that any changes to existing drainage patterns will not negatively impact adjacent property if the construction, remodel, or expansion:
  - (a) Is more than 300 square feet; and
  - (b) Located on an unplatted tract or within a residential subdivision approved more than five years before the building permit application was submitted.

- (C) **Development Regulations.** A building permit application submitted under this section must comply with the requirements described in Subsection 23-2A-3030(C) (One to Two-Unit Residential), except that regulations for tree protection are modified as provided under Division 23-3C-2 (Young Public, Keystone, and Protected Trees).
- (D) **Reduced Application Fees.** To facilitate residential development under this section, review and inspection fees required by this Title may be reduced as established by separate ordinance.

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## 23-2A-3050 Variances

- (A) An applicant may request:
  - (1) A variance or special exception from the Board of Adjustment under Division 23-4B-4 (Criteria for Variances and Special Exceptions) from any zoning regulation applicable to proposed development under this division;
  - (2) For a one to two-unit residential project, a variance from the Land Use Commission, consistent with applicable requirements of Section 23-3D-2060 (Exceptions and Variances); or
  - (3) For a three to six-unit residential project, an administrative modification under Section 23-2D-2070 (Administrative Modifications).
- (B) An applicant for a residential development permit subject to this division may not obtain a variance from requirements specifying which regulations of this Title apply under Section 23-2A-3030 (One to Unit-Residential) or Section 23-2A-3040 (Three to Six-Unit Residential).

# **Urban Forest Protection and Replenishment**

**KEY**

Green text = new or modified language for Draft 2.

Purple text = new or modified language for Draft 3.

# Article 23-3C: Urban Forest Protection and Replenishment

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## Contents

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### Division 23-3C-1: General Provisions

- 23-3C-1010 Purpose and Applicability
  - 23-3C-1020 Review Authority
  - 23-3C-1030 Tree Designations
  - 23-3C-1040 Application and Review Procedures
  - 23-3C-1050 Review by City Arborist
  - 23-3C-1060 Waiver of City Policies, Rules, and Design Standards
  - 23-3C-1070 Annual Reports
- 

### Division 23-3C-2: Young Public, Keystone, and Protected Trees

- 23-3C-2010 Young Public Tree and Keystone Trees
  - 23-3C-2020 Protected Tree Review Criteria
- 

### Division 23-3C-3: Heritage Trees

- 23-3C-3010 Removal Prohibited
- 23-3C-3020 Administrative Modification
- 23-3C-3030 Land Use Commission Variance
- 23-3C-3060 Variance Prerequisite

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# Division 23-3C-1: General Provisions

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## Contents

23-3C-1010	Purpose and Applicability .....	1
23-3C-1020	Review Authority .....	2
23-3C-1030	Tree Designations .....	2
23-3C-1040	Application and Review Procedures.....	3
23-3C-1050	Review by City Arborist.....	3
23-3C-1060	Waiver of City Policies, Rules, and Design Standards .....	4
23-3C-1070	Annual Reports .....	4

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## 23-3C-1010 Purpose and Applicability

### (A) Purpose.

- (1) The purpose of this article is to conserve, protect, and enhance existing trees and natural landscapes that are healthy and contribute to a safe and livable community. It is recognized that the preservation of existing trees contributes to the overall quality of life and environment of the City. Trees play a vital role in water and air quality. They protect the health of aquifers and watersheds identified Article 23-3D (Water Quality), function in storm water management as well as erosion and dust control, abatement of noise, provision of wildlife habitat, and enhancement of property values.
- (2) In addition to its social, ecological, cultural, historical, and aesthetic values, the City's urban forest is estimated to save residents approximately \$19 million annually in reduced energy costs. Consequently, the urban forest is an integral part of the City's infrastructure and the City has an interest in preserving, protecting, and enhancing this vital resource.

### (B) Applicability.

- (1) Except as provided in Subsections (B)(1)-(2), this article applies in the zoning jurisdiction.
- (2) For a preliminary plan, final plat, or subdivision construction plan in the portion of the City's extraterritorial jurisdiction that is within Travis County:
  - (a) This article does not apply; and
  - (b) Title 30 (Austin/Travis County Subdivision Regulations) governs; and
- (3) For City projects or projects on City property, in and outside the zoning jurisdiction.
- (4)

**23-3C-1020 Review Authority**

- (A) Authority and responsibility for implementing this article is delegated to the city arborist, which is appointed by the Development Services Director. However, the city manager may from time to time delegate particular functions under this chapter to one or more other City departments, which shall control over the general delegation in this subsection.
- (B) In exercising authority under this chapter, the director may consult with other City departments regarding issues within that department’s area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (Overview of City Departments).
- (C) The city arborist shall adopt administrative rules to implement this article and, in consultation with the Public Works Director, additional rules to implement Division 23-9F-5 (Sidewalks, Urban Trails, and Street Trees). Rules adopted under this article shall include:
  - (1) tree survey and assessment requirements;
  - (2) application depictions and preservation standards;
  - (3) guidelines for identifying impacts;
  - (4) methods to protect regulated trees during development;
  - (5) mitigation measures;
  - (6) planting requirements for single-family lots; and
  - (7) criteria and performance indicators, including a canopy cover goal, for assessing the state of the urban forest.

**23-3C-1030 Tree Designations**

- (A) **Regulated Trees.** Trees regulated by this article are measured in accordance with the Environmental Criteria Manual and are defined as follows:

Table 23-3C-1030: Regulated Trees	
Regulatory Class	Size in Diameter at Breast Height (DBH)
Young Public Trees	2 inch - 7.9 inch dbh
Keystone Trees	8 inch - 18.9 inch dbh
Protected Trees	19 inch dbh or greater
Heritage Trees	24 inch dbh or greater (limited certain species)

- (B) **Heritage Tree Species.** To qualify as a heritage tree, a tree must meet the size requirements listed in Subsection (A) and qualify as one of the following species or as an additional heritage tree species listed in the Environmental Criteria Manual:
  - (1) Texas Ash;
  - (2) Bald Cypress;
  - (3) American Elm;
  - (4) Cedar Elm;

- (5) Texas Madrone;
- (6) Bigtooth Maple;
- (7) All oaks;
- (8) Pecan;
- (9) Arizona Walnut; and
- (10) Eastern Black Walnut.

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### 23-3C-1040 Application and Review Procedures

- (A) **Tree Requirements for Site Plans.** An application for site plan approval must:
  - (1) Include a grading and tree protection plan, as prescribed by the Environmental Criteria Manual and other applicable rules; and
  - (2) Demonstrate that the design will preserve the existing natural character of the landscape, including the retention of trees eight inches or larger in diameter to the extent feasible.
- (B) **Restrictions on Removal of Keystone Trees.** If development under a proposed site plan will remove a keystone tree, the city arborist may require mitigation, including the planting of replacement trees. The city arborist may not release the site plan until the applicant satisfies the condition or posts fiscal surety to ensure performance of the condition.
- (C) **Restrictions on Removal of Protected Trees.** For an application for preliminary plan, final plat, building permit, or site plan approval that proposes the removal of a protected tree, the city arborist must review the application and make a recommendation before the application may be administratively approved or presented to the Land Use Commission or city council.
- (D) **Removal of Heritage Tree Prohibited.** For an application for preliminary plan, final plat, building permit, or site plan approval that proposes the removal of a heritage tree, the applicant must file a request for a variance to remove the heritage tree under Division 3 of this article before the application may be administratively approved or presented to the Land Use Commission or City Council.

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### 23-3C-1050 Review by City Arborist

- (A) **Compliance Review.**
  - (1) Except as provided in Subsection (A)(2), if approval of application submitted under Section 23-2C-1040 (Application and Review Procedures) would impact or remove a regulated tree, the city arborist:
    - (a) shall review the tree protection and grading plan for compliance with this article before the application may be administratively approved; and
    - (b) may request additional information, as needed, evaluate the applicable criteria in Division 23-3C-2 (Young Public, Keystone, and Protected Trees) and Division 23-3C-3 (Heritage Trees).

- (2) If a tree has sustained substantial damage by natural causes and is an imminent hazard to life or property, a person may remove the tree without prior review by the city arborist.
- (B) **Mitigation Requirements.** If a regulated tree is permitted for removal, the city arborist shall require reasonable mitigation, consistent with the applicable requirements of this article and the Environment Criteria Manual. Compliance with required mitigation measures, which may include planting replace trees, must occur before the Development Services Director may approve the application:
- (C) **Review Fees; Waiver.** An applicant must pay a fee established by separate ordinance if review by the city arborist is required under this section, except that the fee is waived if the application is for:
  - (1) the operation and maintenance of a residential structure;
  - (2) development of 3 to 6 residential units under Division 23-2A-3 (Residential Development Regulations); or
  - (3) removal of a protected tree under Section 23-3C-2020(A)(3)-(5) (Protected Trees).

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### 23-3C-1060 Waiver of City Policies, Rules, and Design Standards

- (A) The city arborist may request that a city department waive or modify a policy, rule, or design standard, other than a regulation of this Title, if enforcement will result in removal of a regulated tree under Section 23-3C-1030 (Tree Designations).
- (B) At the city arborist's request, a responsible director may waive or modify the applicable policy, rule, or design standard, other than a regulation of this Title, if the director determines that a waiver or modification will not pose a threat to public safety.

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### 23-3C-1070 Annual Reports

The City Arborist shall report annually to the Environmental Commission. The report shall include, at a minimum, development impacts to regulated trees and the state of the urban forest.

# Division 23-3C-2: Young Public, Keystone, and Protected Trees

**Contents**

23-3C-2010 Young Public Tree and Keystone Trees ..... 1  
23-3C-2020 Protected Tree Review Criteria ..... 1

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## 23-3C-2010 Young Public Tree and Keystone Trees

- (A) For young public trees (2"-7.9") in public right-of-way, mitigation of any development impacting the tree is encouraged, but not required, except that mitigation may be required for impacts to a street tree under Division 23-9E- 6 (Sidewalks, Urban Trails, and Street Trees).
- (B) Keystone trees (8"dbh-18.9"dbh) and young public trees (2"dbh-7.9") located on City parkland, may be removed and properly mitigated and if city arborist determines that:
  - (1) Modifications to grading, parking, utility assignments, or landscape island configurations, excluding building layout or unit totals, are insufficient to avoid removal of the tree; or
  - (2) Removal meets the criteria applicable to protected trees under Section 23-3C-2020(A) (3)-(5) (Protected Trees).
- (C) Preservation of private keystone trees on single-family development is encouraged, but not required.
- (D) Keystone trees may be counted to satisfy mitigation requirements if protected or heritage trees are approved for removal or to satisfy planting requirements. Review of keystone trees utilized for preservation or mitigation is required during review of a site plan application review to ensure the trees are identified prior to construction.

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## 23-3C-2020 Protected Tree Review Criteria

- (A) A protected tree shall be preserved unless the city arborist determines that the tree:
  - (1) prevents reasonable access to the property;
  - (2) substantially impairs the use of the property;
  - (3) poses an imminent hazard to life or property, which cannot reasonably be mitigated without removing the tree; or
  - (4) is dead;
  - (5) Is fatally diseased; or
  - (6) for a tree located on public property or a public street or easement:
    - (a) prevents the opening of necessary vehicular traffic lanes in a street or alley; or
    - (b) prevents the construction of utility or drainage facilities that may not feasibly be rerouted and reasonable alternative construction methods have been exhausted.

- (B) The city arborist may recommend that the Board of Adjustment or Land Use Commission approve of reasonable variances or administrative modifications, as authorized under this Title, if the variance or modification would allow design solutions that the city arborist believes are reasonably likely to preserve a protected tree.
- (C) If the city arborist denies a request to remove a protected tree, the applicant may appeal the arborist's decision to the Land Use Commission in accordance with the procedures in Article 23-2I (Appeals).

# Division 23-3C-3: Heritage Trees

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**Contents**

23-3C-3010 Removal Prohibited . . . . . 1  
23-3C-3020 Administrative Modification . . . . . 1  
23-3C-3030 Land Use Commission Variance . . . . . 2  
23-3C-3060 Variance Prerequisite . . . . . 2

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**23-3C-3010 Removal Prohibited**

- (A) Removal of a heritage tree is prohibited unless the city arborist has issued a permit for the removal under this Division.
- (B) For an application that proposes the removal of a heritage tree, the applicant must file a request for a variance or administrative modification to remove the heritage tree under Section 23-3C-3020 (Administrative Waiver) or 23-3C-3040 (Land Use Commission Variance) before the application may be administratively approved or presented to the Land Use Commission.
- (C) This division applies to heritage trees on public or private property and controls in the event of a conflict with another provision of this Title.

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**23-3C-3020 Administrative Modification**

- (A) The city arborist may grant an administrative modification from Section 23-3C-3010 (Removal Prohibited) to allow removal of a heritage tree only if the arborist determines that the tree:
  - (1) poses an imminent hazard to life or property, which cannot reasonably be mitigated without removing the tree;
  - (2) is dead; or
  - (3) is fatally diseased.
- (B) The Development Services Director may grant an administrative modification from Section 23-3C-3010 (Removal Prohibited) to allow removal of a heritage tree if:
  - (1) the tree has no stem that is 30 inches or larger in diameter, as measured in accordance with the Environmental Criteria Manual;
  - (2) the director determines, based on the City Arborist’s recommendation, that removal of the heritage tree meets the criteria for removal of a protected tree under Section 23-3C-2020 (Protected Trees):
  - (3) removal of the heritage tree is not based on a condition caused by the method chosen by the applicant to develop the property, unless removal of the heritage tree will result in a design that will allow for the maximum provision of ecological service, historic, and cultural value of the trees on the site; and

- (4) the applicant has satisfied the requirement of Section 23-3C-3040 (Variance Prerequisite); and
- (C) An administrative modification granted by the city arborist or the Development Services Director under this section must be supported by written findings and:
  - (1) must require mitigation as a condition to approval; and
  - (2) may not be issued until the applicant has satisfied the mitigation conditions required under this subsection or posted fiscal security adequate to ensure performance of the mitigation conditions not later than one year after issuance of the waiver.
- (D) If the city arborist or the Development Services Director denies a request for an administrative modification under this section, the applicant may appeal the decision to the Land Use Commission in accordance with the procedures in Article 23-2I (Appeals).

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### 23-3C-3030 Land Use Commission Variance

- (A) The Land Use Commission may grant a variance to allow removal of a heritage tree based on the same criteria applicable to a request for administrative modification by the Development Services Director under Section 23-3C-3010(B) (Administrative Modification).
- (B) A variance request under this section is subject to the application requirements in Section 23-2F-1030 (Application Requirements) and the public notice and hearing requirements in Section 23-2F-1040 (Public Hearing and Notification).
- (C) Before the Land Use Commission acts on a variance request under this section, the Environmental Commission shall review the request and may make a recommendation to the Land Use Commission.
- (D) If the Land Use Commission approves a variance under this section, it shall require mitigation as required by this article and may impose conditions as authorized under Division 23-2F-1 (Variances and Special Exceptions).

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### 23-3C-3060 Variance Prerequisite

- (A) Except as provided in Subsection (B), if a variance, administrative modification, or alternative compliance is available from another requirement of this Title that would eliminate the need for a variance from Section 23-3C-3010 (Removal Prohibited), the applicant may not request a variance or administrative modification from that requirement unless:
  - (1) The applicant requests the variance, administrative modification, or alternative equivalent compliance; and
  - (2) the request is denied.
- (B) This section does not apply to an application for a variance to remove a heritage tree based on the criteria in Section 23-3C-3020(A)(1)-(3) (Administrative Modification).

# Landscape

(Code & Functional Green Overview)

**KEY**

Green text = new or modified language for Draft 2.

Purple text = new or modified language for Draft 3.

## Division 23-4E-4: Landscape

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**Contents**

23-4E-4010	Purpose . . . . .	1
23-4E-4020	Applicability . . . . .	2
23-4E-4030	Landscape Requirements . . . . .	3
23-4E-4040	Front Yard Planting . . . . .	4
23-4E-4050	Foundation Buffer . . . . .	6
23-4E-4060	Surface Parking Tree Islands . . . . .	7
23-4E-4070	Surface Parking Landscape Medians . . . . .	8
23-4E-4080	Surface Parking Lot Perimeter Landscape . . . . .	9
23-4E-4090	Intermittent Visual Obstruction Buffer . . . . .	10
23-4E-4100	Semi-Opaque Buffer . . . . .	11
23-4E-4110	Opaque Buffer . . . . .	12
23-4E-4120	Functional Green . . . . .	13
23-4E-4130	Visual Screening . . . . .	14
23-4E-4140	Submittal Requirements . . . . .	15
23-4E-4150	Final Inspection . . . . .	15
23-4E-4160	Landscape Maintenance . . . . .	16
23-4E-4130	Planting & Soil Standards . . . . .	16

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### 23-4E-4010 Purpose

As the City’s population grows and development density increases, this division addresses the City’s natural sense of place and character through the preservation, protection, and enhancement of the existing, natural, and planted landscapes. This division establishes minimum landscape requirements that provide ecological benefits at the site level. The requirements are meant to enhance, improve, and maintain the quality of the Austin landscape and provide the following benefits:

- (1) improves the environment’s ecological balance by contributing to air purification, oxygen regeneration, ground water recharge, and storm water infiltration processes and aids in abating noise, glare, and heat;
- (2) preserves and replenishes the local stock of native trees and vegetation;
- (3) limits overcrowding on developed land and improves air quality;
- (4) provides visual buffering that safeguards and enhances property values;
- (5) protects public and private investment;
- (6) preserves and protects the City’s unique identity and environment;

- (7) preserves the economic base that is attracted to the City's identity and environment;
- (8) provides cooling shade, **which reduces urban heat**; and
- (9) enhances public health, safety and general welfare.

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## 23-4E-4020 Applicability

- (A) This division applies to:
  - (1) New development that requires a site plan and proposes a use, a building, or stormwater controls unless:
    - (a) the development substantially restores a building within one year after the building was damaged;
    - (b) the development restores a building designated as a historic landmark;
    - (c) the development is to construct a single family or duplex structure; or
    - (d) the development modifies a boat dock or shoreline .
  - (2) A project that includes substantial improvements or renovations and:
    - (a) the proposed and existing structures have a combined 5,000 square feet first floor (GFA) footprint; or
    - (b) the project cost exceeds 50 percent of the pre-project value of the structure.
- (B) Except as provided in Subsection (C),if this division conflicts with other provisions of this Title, this division prevails.
- (C) If this division conflicts with a provision of Chapter 23-9 (Transportation), Article 23- 10E (Drainage), Article 23-3C (Urban Forest Protection and Replenishment), or Article 23-3D (Water Quality), those provisions prevail.
- (D) The director may approve a site plan that proposes an alternative method to comply with this division if:
  - (1) the alternative method is based on criteria provided from the Environmental Criteria Manual; and
  - (2) the alternative method achieves or improves the purpose of the requirements of this division.
- (E) When evaluating an alternative method, the director shall consider:
  - (1) whether the alternative method will preserve existing trees; and
  - (2) how the alternative method will address environmental constraints that exist on the site.

**23-4E-4030 Landscape Requirements**



Diagram 23-4E-4030(1) Overview of Landscape and Buffer Types

**Table 23-4E-4030(A) Overview of Landscape and Buffer Types**

Landscape Type	Section Number	Symbol
Front Yard Planting	23-4E-4040	A
Foundation Buffer	23-4E-4050	B
<b>Surface Parking Area</b>		
Tree Islands	23-4E-4060	C
Landscape Medians	23-4E-4070	D
Parking Lot Perimeter Landscape	23-4E-4080	E

**Table 23-4E-4030(A) Overview of Landscape and Buffer Types (continued)**

Landscape Type	Section Number	Symbol
<b>Compatibility Buffers</b>		
Intermittent Visual Obstruction	23-4E-4090	F
Semi-Opaque	23-4E-4100	G
Opaque	23-4E-4110	H
<b>Other Types</b>		
Functional Green	23-4E-4120	I <sup>1</sup>
Visual Screening	23-4E-4130	J

<sup>1</sup> Not shown in diagram

## 23-4E-4040 Front Yard Planting



Diagram 23-4E-4040(1) Front Yard Planting

### Description

(A) This section establishes the landscaping requirements between the front building facade and the adjacent public right-of-way. Diagram 23-4E-4040(1)(Front Yard Planting) illustrate this section's requirements.

### Applicability

(B) This section applies to a commercial or multi-family development that is located adjacent to a public right-of-way.

### Requirements

(C) The minimum requirements for front yard planting are established in Table 23-4E-4040(A) (Front Yard Planting Requirements). In Table 23-4E-4040 (A) (Front Yard Planting Requirements), planted landscape area means the area of ground surface completely covered in living plant materials at maturity including; trees, shrubs and grasses, groundcovers, perennials and annuals.

(D) The front yard planting area is located between the front building facade and the front property line and it extends to the side property lines.

(E) The plantings required by this section may not conflict with structures, paving, or utility spacing requirements.

(F) If healthy, existing plant materials are located within an undisturbed area of the front yard planting area, each existing plant may count towards the minimum plant requirements in Table 23-4E-4040 (A) (Front Yard Planting Requirements).

(G) The plantings required by this section shall comply with tree diversity standards in Table 23-4E-4170(A) (Diversity Standards).

### Green Infrastructure

(H) If an applicant integrates green stormwater infrastructure into the landscape design or uses stormwater to irrigate the front yard planting area, then the front yard planting area may comply with Section 23- 3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).

**Table 23-4E-4040 (A) Front Yard Planting Requirements**

When setback is:	Front Yard area is calculated <sup>1</sup> from front property line to offset width of:	Min. % of Front Yard required to be Planted Landscape Area	Large and Medium trees required	Small trees required in Front Yard Landscape Area
0'	NA	NA	NA	NA
5'	2.5'	50%	NA	NA
>5' – 10'	10'	50%	NA	1/300 sf
>10' – 15'	12'	50%	1/400 sf	3/400 sf
20' – 30'	15'	50%	1/500 sf	3/500 sf

<sup>1</sup>Square feet of driveway perpendicular to street within front yard is not included in calculation.

**23-4E-4050 Foundation Buffer**

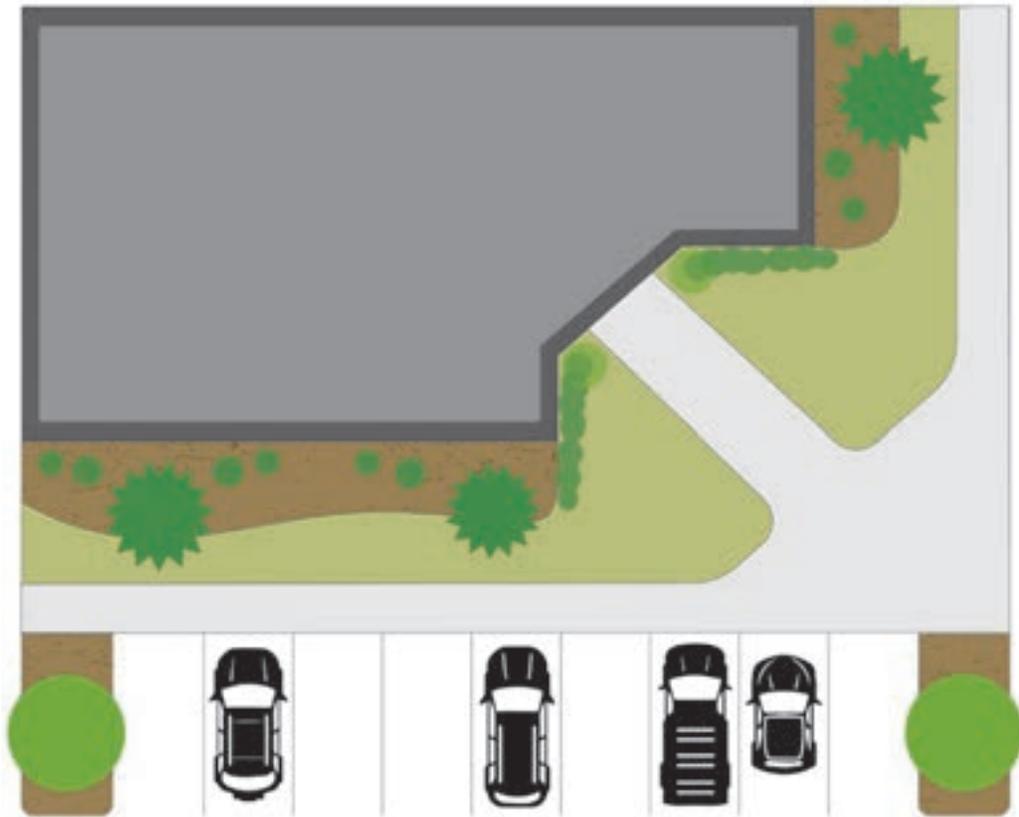


Diagram 23-4E-4050(1) Foundation Buffer

**Description**

(A) Except for an area area used for service/loading or a drive through facility, a foundation buffer is required between a structure’s exterior wall and any portion of a parking lot or drive aisle. Diagram 23-4E-4050(1)(Foundation Buffer) illustrates this section’s requirements.

(B) A foundation buffer is not required around service/loading areas or drive-through facilities.

**Applicability**

(C) This section applies in each zone.

**Requirements**

(D) The minimum width of a foundation buffer is 10 feet. A sidewalk or ramp is not included in the calculation of width.

(E) The minimum length of a foundation buffer is equal to 75 percent of length of the adjacent exterior wall that faces a parking lot or drive aisle.

(F) A foundation buffer shall meet or exceed the minimum planting requirements established in Table 23-4E-4050(A)(Planting Requirements).

**Table 23-4E-4050(A) Planting Requirements**

Plant Type	Quantity
Small trees	5 per 100 linear feet
Perennial shrubs, grasses, and/or groundcovers	45 per 100 linear feet

(G) The plants required by this section shall comply with the tree diversity standards in Table 23-4E-4170(A)(Diversity Standards).

**23-4E-4060 Surface Parking Tree Islands**

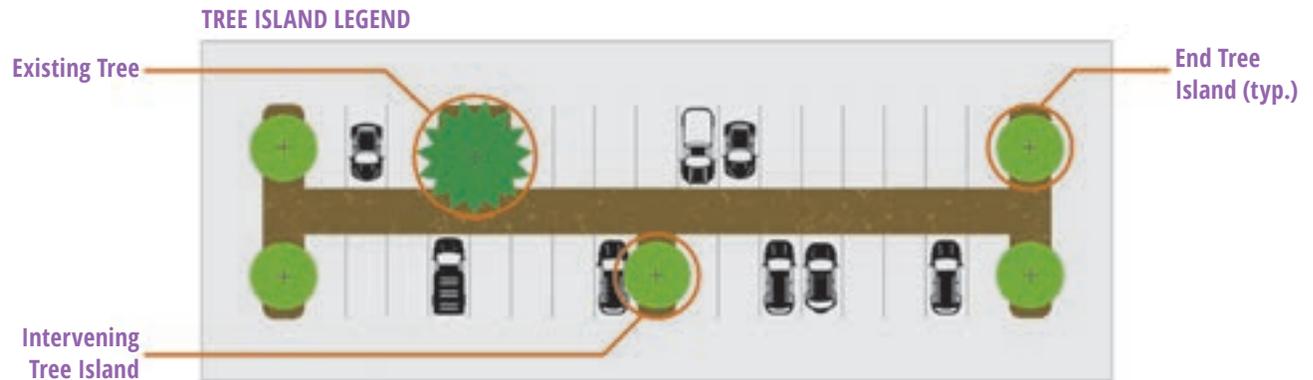


Diagram 23-4E-4060(1)

**Description**

(A) A tree island allows medium or large trees to grow in a parking area and serve to provide shade, reduce heat island effect, and promote plant diversity. Diagram 23-4E-4060(1) illustrates this section's requirements.

**Applicability**

(B) An off-street parking lot shall include at least one parking tree island.

**Requirements**

**Location and Quantity**

(C) The last parking stall of each parking run must be separated from the adjacent travel lanes using a parking tree island.

(D) Except as provided in Subsection (E), the maximum number of consecutive parking stalls separated by a parking tree island is eight.

**Exception for Saving Existing Trees**

(E) To preserve existing trees and foster design flexibility based on context, the number and location of parking tree islands may be reduced provided the number of parking stalls between parking tree islands does not exceed 12.

**Island Size for Proposed Trees**

**Tree Island Minimums**

(F) A tree island with proposed trees, the tree island shall be (1) sized to comply with soil volume requirements; (2) at least ten feet wide measured from the edge of the pavement; and (3) at least the entire length of the adjacent parking stall.

(G) A tree island that preserves existing trees, the tree island shall be (1) the greater of 10 feet wide measured from the edge of the pavement or 1/2 of the critical root zone; and (2) at least the entire length of a parking stall.

(H) The plants required by this section shall comply with the tree diversity standards in Table 23-4E-4170(A)(Diversity Standards).

**Green Infrastructure**

(I) When new trees are planted in a parking tree island, the parking lot and each median shall be graded to receive stormwater in a manner that complies with the Environmental Criteria Manual, except when preserved existing trees do not allow.

(J) To allow runoff to enter planting areas as well as protect planting from automobile traffic, the edge of pavement treatment is required.

(K) If an applicant integrates green stormwater infrastructure into landscape design or uses the stormwater to irrigate parking tree islands, then the parking tree islands may comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).

**23-4E-4070 Surface Parking Landscape Medians**

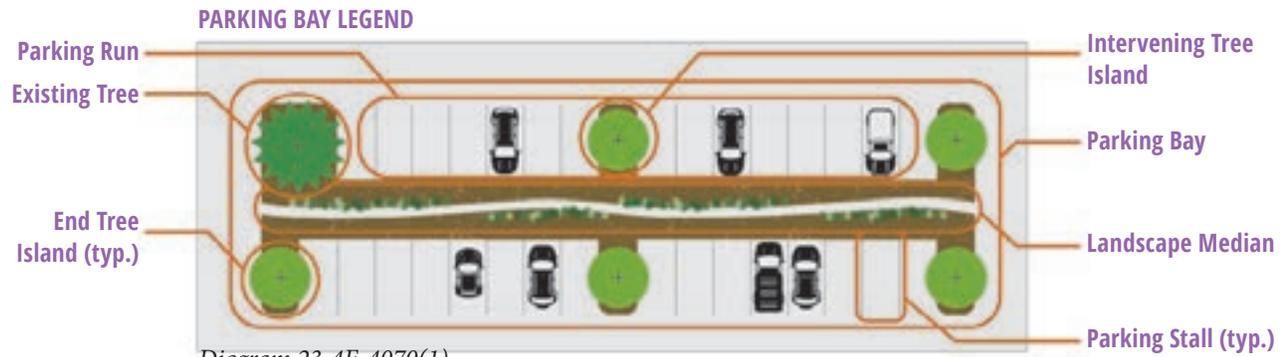


Diagram 23-4E-4070(1)



Diagram 23-4E-4070(2)

**STANDARD**

Each parking bay contains a 10' wide Landscape Median

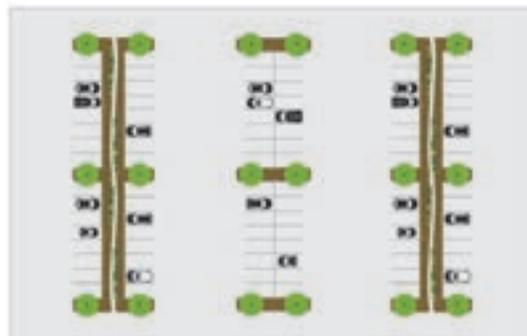


Diagram 23-4E-4070(3)

**OPTIONAL**

If the parking lot has 120 parking stalls, every other parking bay contains a 15' wide Landscape Median with 5' wide sidewalk running the entire length

**Description**

(A) A landscape median separates parking runs on the interior portion of a parking lot. Diagrams 23-4E-4070(1), (2), and (3) illustrate this section's requirements.

**Applicability**

(B) A landscape median is required for a surface parking lot with two adjacent facing parking runs.

**Requirements**

**Landscape Median Minimums**

(C) A landscape median must be a minimum of ten feet wide when measured from the edge of the pavement unless the soil volume standards established in the Environmental Criteria Manual require a different width.

(D) For a surface parking lot with 120 or more parking stalls, every other parking bay may contain a 15 foot wide walkway that runs the entire length of the median.

(E) The plants required by this section shall comply with tree diversity standards Table 23-4E-4170(A) (Diversity Standards).

**Green Infrastructure**

(F) When new trees are planted, each median shall be graded to receive stormwater in a manner that complies with the Environmental Criteria Manual, except when preserved existing trees do not allow.

(G) To allow runoff to enter planting areas as well as protect planting from automobile traffic, the edge of pavement treatment is required.

(H) If an applicant integrates green stormwater infrastructure into landscape design or uses stormwater to irrigate medians, then the median area may comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).

## 23-4E-4080 Surface Parking Lot Perimeter Landscape



### Description

(A) A parking lot perimeter landscape screens a surface parking lot from an internal circulation route (private or public) and maintains pedestrian vitality along a commercial center and a mixed use corridor serves pedestrian traffic.

### Applicability

(B) A perimeter landscape is required for an off-street surface parking lot and public or private thoroughfares where landscaping is not otherwise required. This section also applies to a buffer that adjoins a surface parking lot where no cross-access is provided.

### Requirements

(C) A perimeter landscape that consists only of plants: (1) must be at least ten feet wide; (2) must use evergreen shrubs that are at least three feet but no more than four feet; and (3) the shrubs must form a continuous visual screen.

(D) A perimeter landscape that includes plants and a fence or wall must be at least five feet wide. The fence or wall may not exceed three feet in height.

(E) If small trees are used, one tree must be planted per 20 linear feet.

(F) If small or medium shrubs are used, one shrub must be planted per three linear feet.

(G) The plants required by this section shall comply with the tree diversity standards Table 23-4E-4170(A) (Diversity Standards).

### Green Infrastructure

(H) If an applicant integrates green stormwater infrastructure into landscape design or uses stormwater to irrigate the perimeter landscape area, this area may comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).

**23-4E-4090 Intermittent Visual Obstruction Buffer**



**Description**

(A) An intermittent visual obstruction buffer is a compatibility buffer, is at least 20 feet in height, and creates the appearance of spatial separation but does not eliminate the visual contact between properties.

**Requirements**

(B) An intermittent visual obstruction shall meet or exceed the minimum requirements established in Table 23-4E-4090(A) (Minimum Buffer Requirements).

**Table 23-4E-4090(A) Minimum Buffer Requirements**

Minimum Buffer Width	8'
<b>Min. planting per 100 linear feet</b>	<b>Aggregate Caliper</b>
Large or Medium Trees	9"
Small Trees	12"
<b>Shrubs per 100 linear feet</b>	<b>Quantity</b>
Shrubs	15

(C) At least 75 percent of the trees and shrubs in the buffer must be evergreen species.

(D) The plants required by this section shall comply with the tree diversity standards Table 23-4E-4170(A) (Diversity Standards).

**Green Infrastructure**

(E) If healthy, existing plant materials are located within the undisturbed area of a buffer and the plant materials are listed in Appendices F and N of the Environmental Criteria Manual, then the plants may be used to comply with the minimum planting requirements in this section.

(F) If an applicant integrates green stormwater infrastructure into landscape design or uses stormwater to irrigate the perimeter landscape area, this area may comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).

**23-4E-4100 Semi-Opaque Buffer**



**Description**

(A) A semi-opaque buffer is a compatibility buffer, is at least six feet in height, and creates the appearance of spatial separation but does not eliminate visual contact between properties.

**Requirements**

(B) An intermittent visual obstruction shall meet or exceed the minimum requirements established in Table 23-4E-4100(A) (Minimum Buffer Requirements).

**Table 23-4E-4100(A) Minimum Buffer Requirements**

Minimum Buffer Width <sup>1</sup>	12'
<b>Min. planting per 100 linear feet</b>	<b>Aggregate Caliper</b>
Large or Medium Trees	12"
Small Trees	14"
<b>Shrubs per 100 linear feet</b>	<b>Quantity</b>
Shrubs	33

<sup>1</sup> Buffer width can be reduced to 8 feet when a 6-foot opaque wood fence, masonry wall, or vegetative wall system is utilized (same plant quantities apply).

(C) At least 75 percent of the trees and shrubs in the buffer must be evergreen species.

(D) The plants required by this section shall comply with the tree diversity standards Table 23-4E-4170(A) (Diversity Standards).

**Green Infrastructure**

(E) If healthy, existing plant materials are located within the undisturbed area of a buffer and the plant materials are included in Appendices F and N of the Environmental Criteria Manual, the plants may be used to comply with the minimum planting requirements in this section.

(F) If an applicant integrates green stormwater infrastructure into landscape design or uses stormwater to irrigate the perimeter landscape area, this area may comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).

**23-4E-4110 Opaque Buffer**



**Description**

(A) An opaque buffer is a compatibility buffer, is at least 20 feet in height, prevents visual contact between uses, and creates the appearance of total separation.

**Requirements**

(B) An intermittent visual obstruction shall meet or exceed the minimum requirements established in Table 23-4E-4110(A) (Minimum Buffer Requirements).

**Table 23-4E-4110(A) Minimum Buffer Requirements**

Minimum Buffer Width <sup>1</sup>	15'
<b>Min. planting per 100 linear feet</b>	<b>Aggregate Caliper</b>
Evergreen Small Trees	20"
<b>Shrubs per 100 linear feet</b>	<b>Quantity</b>
Evergreen Shrubs	55

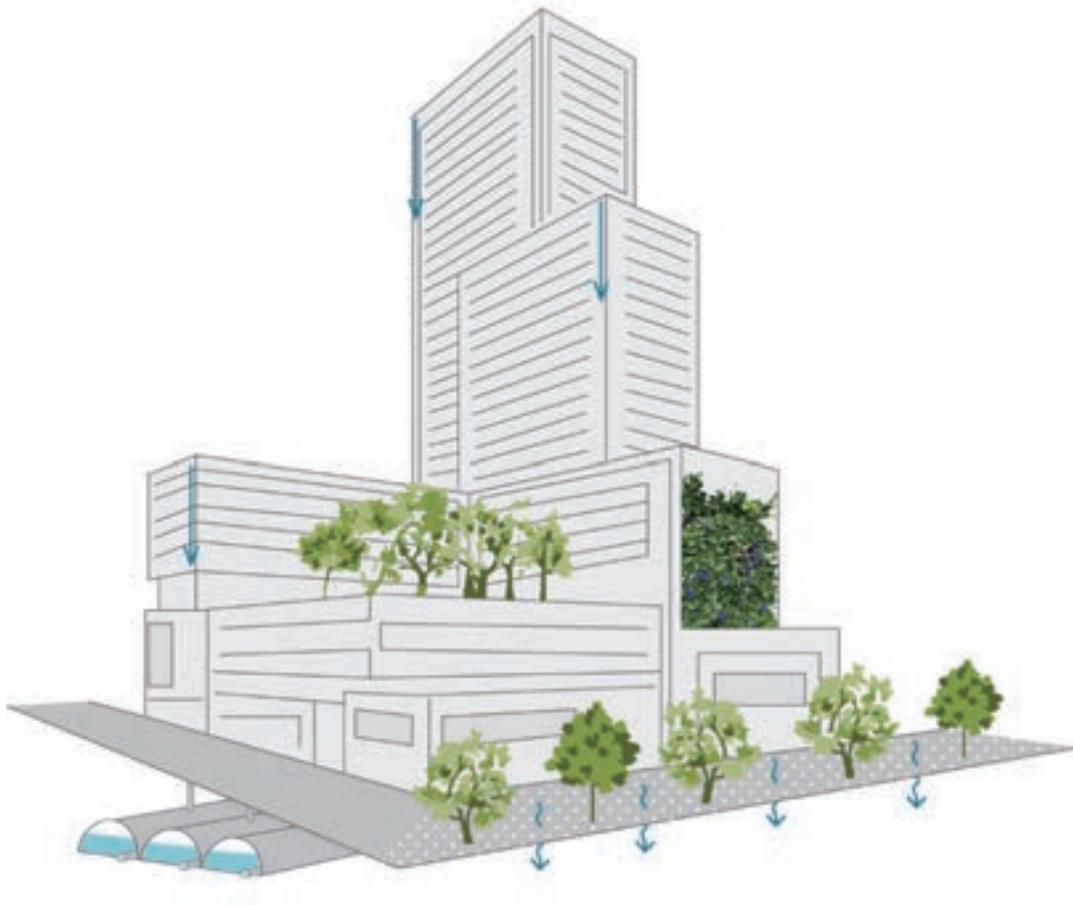
<sup>1</sup> Buffer width can be reduced to 8 feet when a 6-foot opaque wood fence, masonry wall, or vegetative wall system is utilized (same plant quantities apply).

(C) The plants required by this section shall comply with the tree diversity standards Table 23-4E-4170(A) (Diversity Standards).

**Green Infrastructure**

(D) If healthy, existing plant materials are located within the undisturbed area of a buffer and the plant materials are included in Appendices F and N of the Environmental Criteria Manual, the plants may be used to comply with the minimum planting requirements in this section.

(E) If an applicant integrates green stormwater infrastructure into landscape design or uses stormwater to irrigate the perimeter landscape area, this area may comply with Section 23-3D-6030 (Water Quality Control and Green Stormwater Infrastructure Standards).

**23-4E-4120 Functional Green****Description**

(A) A functional green landscape provides a site with little to no landscape area or planting areas at ground level with green infrastructure that function equivalent to the ecosystem provided by a site that complies with landscape requirements.

**Applicability**

(B) A site that may exceed 80 percent impervious cover must meet functional green landscape requirements.

**Requirements**

(C) The Environmental Criteria Manual establishes the minimum requirements for functional green landscapes.

---

**23-4E-4130 Visual Screening****(A) General Requirements**

- (1) Screening is required to conceal specific areas of high visual or auditory impact or hazardous areas from off-site views.
- (2) Unless otherwise specified, such areas shall be screened at all times regardless of adjacent uses, zones, or other proximate landscape material.
- (3) The Environmental Criteria Manual shall prescribe screening methods that are consistent with this section.

**(B) Items to be Screened**

The following items shall be screened:

- (1) a large waste receptacle;
- (2) an area used for loading and service;
- (3) an outdoor storage area including inoperable vehicle, appliance, tire, building material, equipment, raw material, and aboveground storage tank that is located within 200 feet of a public right-of-way;
- (4) an exterior shopping cart storage area that is located adjacent to a single-family development;
- (5) ground-level mechanical equipment, except for utility meters;
- (6) a water quality and detention pond, except for a rain garden, biofiltration pond, or wet pond; and
- (7) telecommunication equipment and facilities.

---

**23-4E-4140 Submittal Requirements**

- (A) A landscape plan shall be submitted as part of a site plan and shall:
  - (1) be sealed by a landscape architect licensed to practice in the State of Texas;
  - (2) be drawn to scale and include property boundaries, north arrow, engineer or architect's graphic scale, and date;
  - (3) delineate existing and proposed structures, parking bays/stalls, access ways and other vehicular use areas, sidewalks, utilities, easements, and height and voltage of power lines on the property or adjacent property;
  - (4) provide a plan to protect trees and to relocate existing trees and plant communities during construction, if appropriate;
  - (5) identify all existing vegetation, soils, landscape features and rock materials;
  - (6) show the specific location, species, size and quantities of proposed trees;
  - (7) depict proposed measures for stormwater control;
  - (8) include a "landscape legend" that identifies the common and scientific name of plants, quantities of the plants to be installed, and complies with the format established in the Environmental Criteria Manual;
  - (9) illustrate existing utilities and proposed utilities;
  - (10) include planting notes, details, and specifications;
  - (11) include irrigation notes (Environmental Criteria Manual Appendix O);
  - (12) provide tree mitigation analysis;
  - (13) provide landscape calculations; and
  - (14) provide accurate sheet numbering and title according to submittal-set legend.

---

**23-4E-4150 Final Inspection**

- (A) To ensure compliance with this division, the director will conduct a final inspection.
- (B) Before the director conducts a final landscape inspection, the director must receive a letter that is sealed by a licensed landscape architect that states that the landscape plan has been implemented consistent with the approved landscape plan.
- (C) Except as otherwise provided, the site must pass the final landscape inspection before the building official is authorized to issue a certificate of occupancy for the site.
- (D) If the director finds that the landscape required in the landscape plan is not living, healthy, or installed as required, the building official may not issue a certificate of occupancy.
- (E) If an applicant requests a certificate of occupancy before the approved landscape plan is implemented as required, the applicant must provide the director and the building official with a developer's agreement.

**23-4E-4160 Landscape Maintenance**

- (A) The owner of a site shall maintain a landscaped area that is not located in the public right-of-way and maintain the landscaped area in a manner that complies with this division, the approved landscape plan, and generally accepted horticultural practices.
- (B) A landscaped area must present a healthy and orderly appearance that is free from refuse and debris.
- (C) An owner who receives notification from the director that a plant in the landscaped area is dead, diseased, or severely damaged shall:
  - (1) remove the plant within 60 days from the date the director provided notice; and
  - (2) replace the plant within six months from the date the director provided notice, or by the next planting season, whichever comes first.
- (D) An owner required to replace a plant under Subsection (C) must use replacement plants that are the same size and species as shown on the approved landscape plan or must be of equal quality and size. A plant replaced under this section is not an amendment to the approved landscape plan.

**23-4E-4170 Planting & Soil Standards**

- (A) An owner shall ensure that each plant within a landscaped area thrives.
- (B) Each new planting required by this division shall comply with this section.
- (C) Trees
  - (1) At the time a medium or large tree is planted, it must have a caliper of at least three inches, as determined in the American Standard for Nursery Stock (ANSI Z60.1-2004, as amended).
  - (2) At the time an small tree is planted, it must have a caliper of at least two inches, as determined in the American Standard for Nursery Stock (ANSI Z60.1-2004, as amended).
  - (3) To curtail the spread of disease or the onset of an infestation in a plant species, new tree plantings must comply with the requirements in Table (A)(Diversity Standards).

**Table 23-4E-4130(A): Diversity Standards**

Number of Trees Required	Number of Different Species Required
2 to 19	At least 2 different species
20-39	At least 3 different species
40 or more	At least 4 different species
Species to be provided in roughly equal proportions	

- (4) When an aggregate caliper inch (ACI) is utilized to derive the required amount of landscape or tree cover and the ACI figure includes a fraction, the applicant may:
  - (a) utilize a tree or trees with a caliper inch measurement that exceeds the minimum size required at planting; or

- (b) round the ACI figure up until the figure corresponds with a whole number of trees that meet size required at time of planting.
- (D) Shrubs
- (1) Large Shrubs. A large deciduous or evergreen shrub shall meet the minimum required for a five gallon nursery container as determined by the American Standard for Nursery Stock standards, and have a mature growth height exceeding seven feet.
  - (2) Medium Shrubs. A medium deciduous and evergreen shrub shall meet the minimum required for a three gallon nursery container as determined by the American Standard for Nursery Stock standards, and have a mature growth height between three and seven feet.
- (E) Grasses and Groundcovers. Grasses and groundcovers shall meet the minimum required for a one gallon nursery container as determined by the American Standard for Nursery Stock standards.
- (F) Materials
- (1) Landscape plant materials shall conform to the American Standard of Nursery Stock (ANSI Z60.1, as amended).
  - (2) At least 80 percent of the new planting shall be native or adapted, drought tolerant species.
- (G) Locations
- (1) Easement and Areas Near a Fire Protection System Plantings.
    - (a) Unless the easement holder consents, only groundcover may be planted or installed within any utility, drainage, water, or gas easement; or within five feet of a fire protection system.
    - (b) If the easement holder consents, an approved landscape plan may include trees, shrubs, grasses, and groundcover to be planted or installed within the easement or area within five feet of a fire protection system if the plantings support the purpose of this division.
  - (2) Power Lines. If a tree will be installed within ten feet of an overhead electric conductor or underground electric facility, the tree must be a designated a utility-compatible tree in Appendix F of the Environmental Criteria Manual.
  - (3) Transmission Facilities. If a tree will be installed within 50 feet of an existing or proposed electric transmission line, structure, or pole, the tree must be designated a utility-compatible tree in Appendix F of the Environmental Criteria Manual.
  - (4) Pad Mounted Electric Equipment. If a tree will be installed within ten feet of a pad-mounted electric equipment, the tree must be designated a utility-compatible tree in Appendix F of the Environmental Criteria Manual. A tree may not be installed within five feet of pad-mounted electric equipment.
  - (5) Sewer, Gas, and Water Lines. A tree species whose roots are known to cause damage to sewer, gas, and water lines shall not be planted closer than 12 feet to such utility lines unless the tree root system is completely contained with a barrier or is otherwise approved by the utility provider.
  - (6) Fire Hydrants. Except for groundcover that is less than six inches in height, plantings may not be installed within three feet of any fire hydrant or fire protection system.

- (7) A new proposed tree shall be planted in a landscape area that is adequately dimensioned to meet the minimum soil volume required by Appendix F of the Environmental Criteria Manual Appendix F.
- (8) A tree shall be planted to maintain a minimum distance of five feet from any impervious surface.
- (9) A tree shall be planted such that, upon maturation, maximum height and spread shall not encroach within 10 feet of overhead power lines, street lights, or similar utility infrastructure.
- (10) A plant with thorns and sharp points shall be planted a minimum of five feet from a pedestrian area to promote safety.

(H) Soil Composition

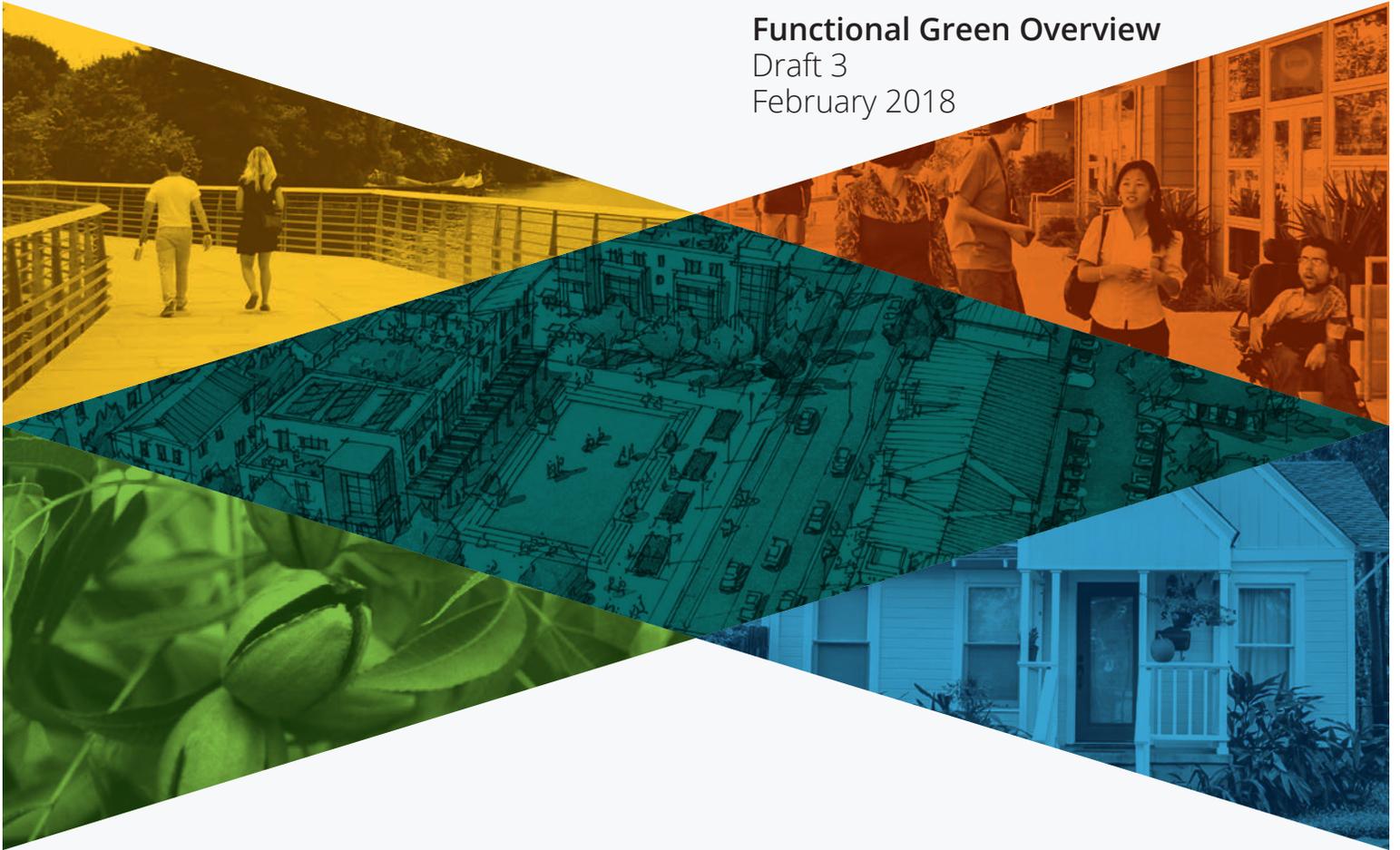
- (1) Compacted soil and backfill material within a front yard planting area or a buffer planting area shall be excavated to a minimum depth of 12 inches and replaced with a combination of native topsoil and blended soils.
- (2) For a parking lot planting area, :
  - (a) the compacted base material shall be excavated down to native soil or a depth of three feet, whichever is deeper, and scarified;
  - (b) the excavated base material shall be replaced with native topsoil and blended soils; and
  - (c) the topsoil mix shall be placed in the planting area after the irrigation mainlines are installed as required by the Environmental Criteria Manual.
- (3) Soil Characteristics
  - (a) The landscape plan should create a blend of planting bed soils that provide specific portions of sandy soil, loamy soil, and organic compost for different areas of the landscape within the site.
  - (b) The actual portions in the mix should be based upon laboratory data so that soil is formulated to provide optimal growing conditions for the actual plants installed or planted in the landscape area. The data should focus on:
    - (i) nutrients;
    - (ii) soil structure/mechanics; and
    - (iii) water availability/moisture retention.
- (4) Ground Stabilization. Disturbed areas and required landscape planting areas shall be stabilized and maintained as required in Section 23-3D-7020 (Development Completion).
- (5) Soil Volume for Proposed Trees
  - (a) A tree planting area must be adequately sized to accommodate the necessary functions of air, nutrient and water uptake, and root space.
  - (b) A planting area that will contain proposed trees must meet the minimum tree soil volume requirements required in the Environmental Criteria Manual.
  - (c) The minimum depth of a tree well for a proposed tree shall be three feet.

- (d) Each tree must be spaced appropriately to provide individual minimum soil volume requirements except that medium or large trees may be spaced closer together to allow the medium or large trees to share a maximum of 20 percent of the soil volume .
- (6) Soil Volume for Existing Trees. The minimum soil volume for an existing tree must comply with the Environmental Criteria Manual.
- (7) Soil Conditioning and Mulching. In a non-turf area, a minimum of three inches of organic mulch should be added to the soil surface area after planting.
- (l) Irrigation Requirements
  - (1) Except as provided in (4), permanent irrigation is required.
  - (2) If an automatic irrigation system is installed, the system shall comply with 30 Texas Administrative Code Chapter 344 (Landscape Irrigation), Chapter 6-4 (Water Conservation), and Appendix O of the Environmental Criteria Manual.
  - (3) A landscape area that contains plants and all new trees shall receive supplemental irrigation for a specific duration, as determined between landscape architect and landscape inspector, and the supplemental irrigation may be provided by one of the following methods:
    - (a) an automatic irrigation system;
    - (b) a hose attachment, if
      - (i) the hose attachment is located within 100 feet of the landscaped area; and
      - (ii) the landscape area is not separated from the hose attachment by a road or parking pavement; or
    - (c) a temporary, above ground automatic irrigation system, if the system complies with the water conservation requirements in the Environmental Criteria Manual.
  - (4) Permanent irrigation is not required for:
    - (a) an undisturbed natural area;
    - (b) undisturbed existing trees; and
    - (c) an area revegetated with native seed if the area is irrigated by temporary irrigation during the applicable establishment period as specified in the Environmental Criteria Manual.

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# AUSTIN LAND DEVELOPMENT CODE

**Functional Green Overview**  
Draft 3  
February 2018



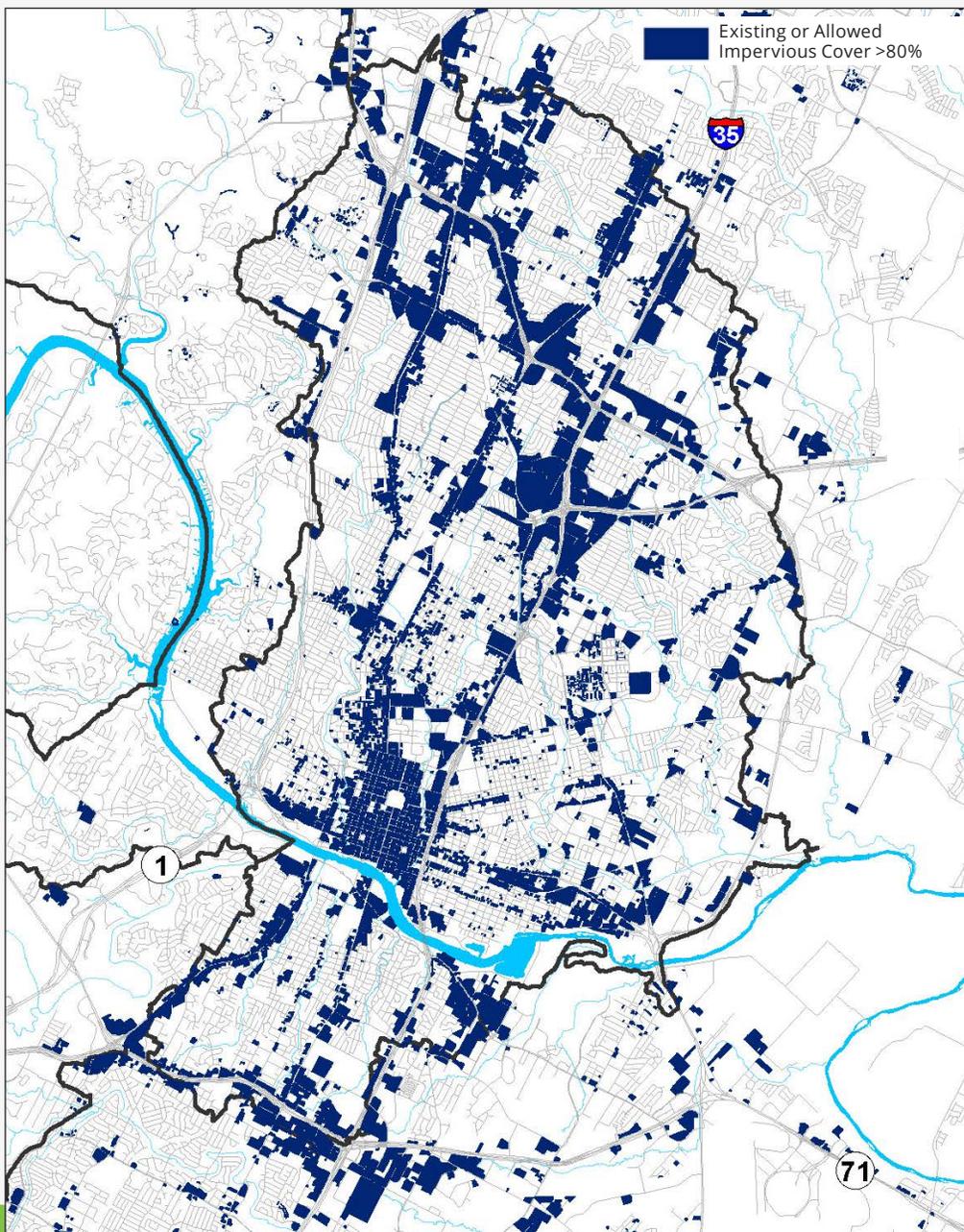
**CODENEXT**

SHAPING THE AUSTIN WE IMAGINE

2017-  
2018

# the need for FUNCTIONAL GREEN

**“Integrating nature into the city”** is one of the eight priorities identified in Imagine Austin. To reach this goal and meet growth demands, Austin must creatively integrate vegetated areas into newly built environments while also continuing to be good stewards of open spaces and parks. Functional Green is specifically focused on dense urban sites and is one of several tools developed to enhance green infrastructure in the city.



**Functional Green** applies to sites proposing an impervious cover limit greater than 80%. Functional Green will generally apply in the urban watersheds; however, sites outside the urban watersheds that currently have an impervious cover greater than 80%, and redevelop maintaining or exceeding that impervious cover, will also have to comply with the Functional Green requirements.

# GOALS

## 1. INTEGRATE NATURE

Integrate nature into parcels where building cover or other impervious surfaces limit what the standard landscape code can accomplish.

## 2. PROVIDE FLEXIBILITY

Give developers a planning tool that is flexible and provides ecological benefits comparable to those achieved by the standard landscape code.

## 3. STRAIGHTFORWARD

Provide a program that is straightforward and clear to implement and review.



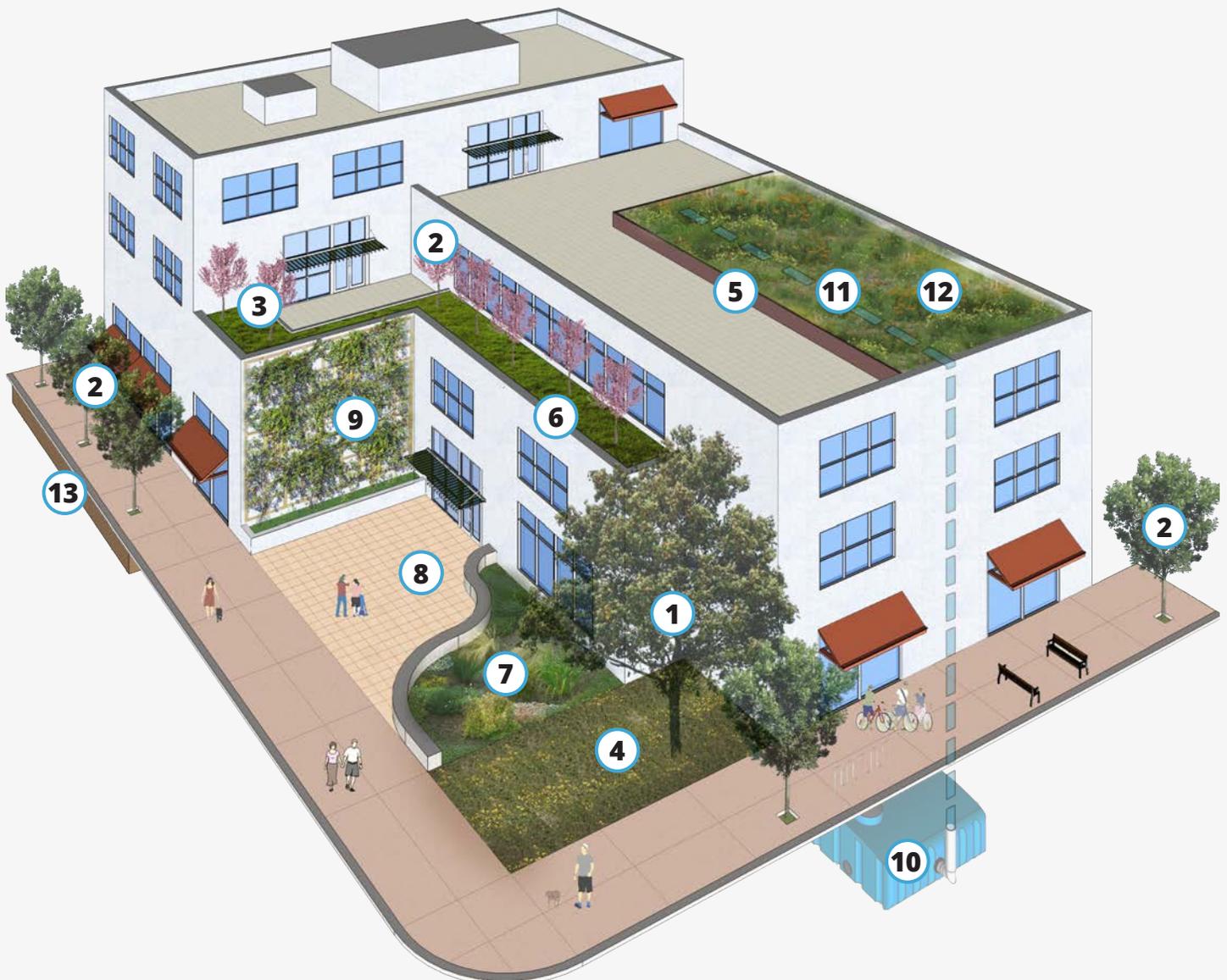
Photo by Juan Hernandez, Landscape Architecture by Mithun

Functional Green projects will comply with all other applicable code requirements, including tree preservation, stormwater management, and impervious cover limits. The specific requirements of Functional Green, including definitions and calculations, will be prescribed in the Environmental Criteria Manual and is referenced in section 23-4E-4120 of the Land Development Code. Many of the practices a site could use to achieve Functional Green also meet other requirements, thereby assisting compliance with multiple parts of the code.

# functional green

## TARGET SCORE

Projects eligible for Functional Green will be required to meet a specified target score that represents the ecological function of a site relative to the total site area. A draft target score of 0.3 has been established based on multiple case studies of built and planned projects across the city. To meet the target score, developers can choose from a suite of Landscape Elements that are common in urban environments. Case studies show that a target score of 0.3 is achievable and provides high ecological performance and human health benefits.



Note: Numbers refer to Landscape Elements listed on the opposite page.

To calculate the Functional Green score, the total area of each landscape element is determined and then multiplied by an established factor. The weighted-area value of each landscape element is then summed and divided by the total area of the site.

$$\text{FUNCTIONAL GREEN SCORE} = \frac{\left( \begin{array}{l} \text{Area (sq. ft.)} \\ \text{of Landscape} \\ \text{Element A} \\ \times \text{Factor A} \end{array} + \begin{array}{l} \text{Area (sq. ft.)} \\ \text{of Landscape} \\ \text{Element B} \\ \times \text{Factor B} \end{array} + \begin{array}{l} \text{Area (sq. ft.)} \\ \text{of Landscape} \\ \text{Element C} \\ \times \text{Factor C} \end{array} \right)}{\text{Total Area (sq. ft.) of Site}^*}$$

\* Landscape Elements integrated into the right-of-way can also be claimed for Functional Green credit; however, the right-of-way is not included in the total site area.

LANDSCAPE ELEMENTS	
PLANTED AREA	FACTOR
① Existing Trees	0.8
② Newly Planted Tree: Large	0.6
② Newly Planted Tree: Medium	0.5
② Newly Planted Tree: Small	0.4
③ Shrubs / Ornamental Grasses / Perennials	0.3
④ Ground Cover	0.2
SPECIALIZED MEDIA	
⑤ Extensive Green Roof	0.5
⑥ Intensive Green Roof	0.6
⑦ Rain Garden	0.3
ADDITIONAL ELEMENTS	
⑧ Porous Pavement	0.4
⑨ Vegetated Wall	0.5
⑩ Cistern	0.3
BONUS OPTIONS	
⑪ Auxiliary Water Irrigation	0.2
⑫ Pollinator Resource	0.1
⑬ Suspended Pavement System	0.2

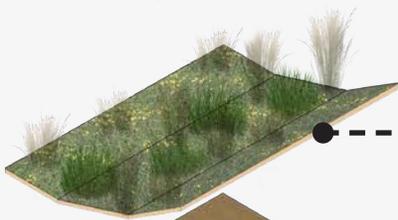
# maximize target score LAYERING LANDSCAPE ELEMENTS

Landscape Elements can be layered to optimize ecological function within a small area. By creatively stacking multiple elements, a site can enhance the benefits it provides and boost its Functional Green score.

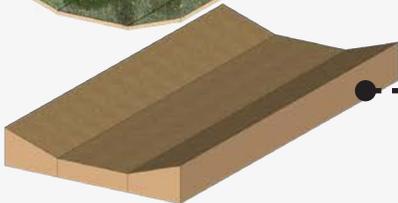


SMALL TREE

SHRUBS



ORNAMENTAL GRASSES



RAIN GARDEN

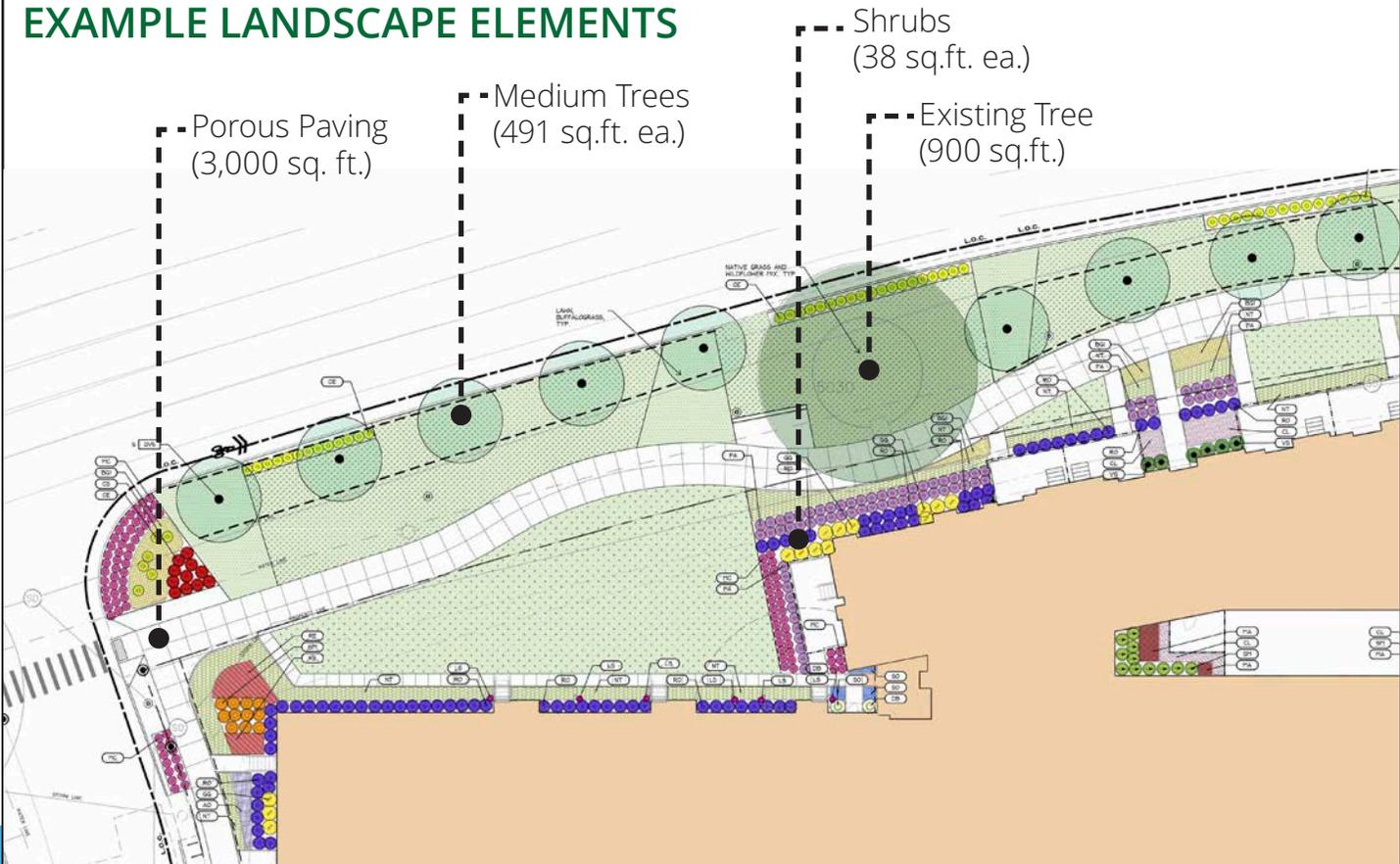


# FUNCTIONAL GREEN SCORE SHEET

Project title:		enter sq ft of parcel	
Parcel size (enter this value first) *		FUNCTIONAL GREEN SCORE	
Landscape Elements**			Factor
<b>A Planted area coverage</b>			
1 Existing tree	enter sq ft 0		0.8
2 Large newly planted tree (mature width 40' or greater)	enter sq ft		0.6
3 Medium newly planted tree (mature width 20-39')	enter sq ft 0		0.5
4 Small newly planted tree (mature width 10-19')	enter sq ft		0.4
5 Shrubs, ornamental grasses, and large perennials	enter sq ft 0		0.3
6 Ground cover	enter sq ft 0		0.2
<b>B Specialized media</b>			
7 Green roof - extensive	enter sq ft 0		0.5

The City will provide Functional Green guidance documents and calculation forms, including a simple spreadsheet to aid in determining a site's score. Each site will enter the total square footage of the project area and the square footage of each Landscape Element. The Functional Green score will then be calculated automatically within the spreadsheet.

## EXAMPLE LANDSCAPE ELEMENTS



Source: TBG Partners

# functional green LANDSCAPE ELEMENTS

A primary goal of Functional Green is to enhance the vegetated area and ecological performance of dense urban sites. Functional Green is based on the science of “ecosystem services,” the important benefits that people receive from healthy functioning ecosystems. Like other landscapes, Functional Green projects have the potential to provide ecosystem services (such as cleaning the air, regulating microclimate, and providing habitat for wildlife ) that benefit both site users and the surrounding community.

A total of a 120 published studies were reviewed to identify the ecological and economic benefits that could be expected from each Landscape Element in Austin. These studies provided a basis for rating the relative performance of each Landscape Element based on 9 key considerations:

-  Microclimate Regulation
-  Water Filtration
-  Carbon Storage and Sequestration
-  Biodiversity Benefits
-  Air Pollutant Removal
-  Human Well-Being
-  Stormwater Retention
-  Effects on Property Value
-  Effects on Developable Area

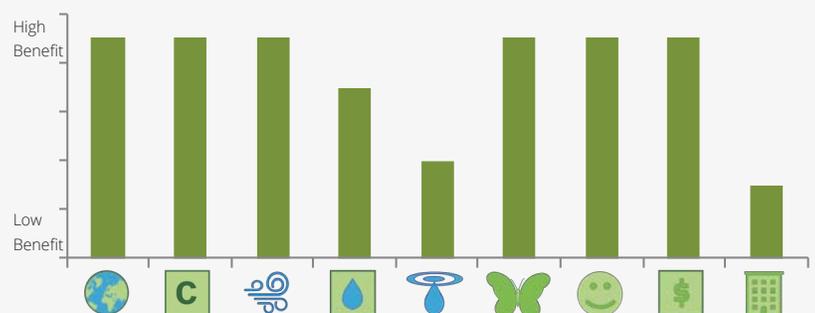


## EXISTING TREES AND LARGE, MEDIUM, AND SMALL TREES

Factor: 0.4 - 0.8

Cost: \$\$

Existing trees receive the highest factor score because of the high level of benefits they provide. Newly planted trees receive credit based on their estimated size at maturity (small, medium, and large).



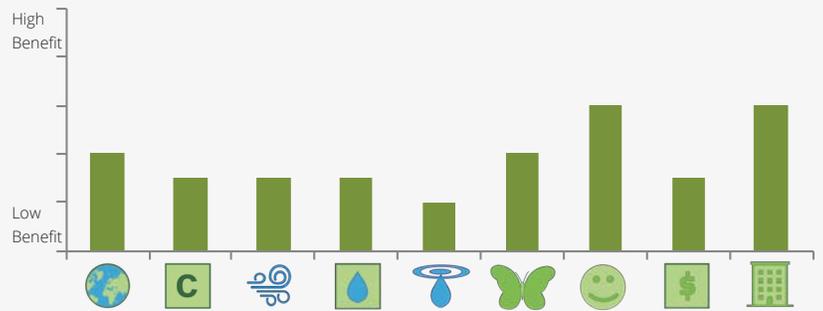


### SHRUBS, ORNAMENTAL GRASSES, LARGE PERENNIALS, OR GROUND COVER

Factor: 0.2 - 0.3

Cost: \$

Shrubs are woody vegetation over 2 feet in height with a mature width of 9 feet or less. Ornamental grasses and perennials have a mature height of at least 2 feet and must be evergreen or have year round structure. Ground cover is low spreading vegetation less than 24 inches in height.

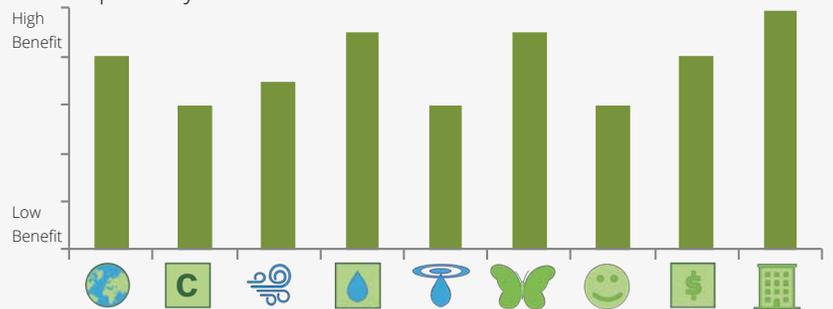


### EXTENSIVE AND INTENSIVE GREEN ROOF

Factor: 0.5 - 0.6

Cost: \$\$\$ - \$\$\$\$

Green roofs cover buildings, parking garages, and other elevated surfaces with a vegetated surface and growing media. Projects can use both extensive (media less than 7" deep) and intensive (media 7" deep or greater) green roofs. Additional credit for the plantings in the green roof is counted separately.



### RAIN GARDEN

Factor: 0.3

Cost: \$ - \$\$

A rain garden is a vegetated, depressed landscape area designed to capture and infiltrate and/or filter stormwater runoff. Rain garden media is either native soil or biofiltration media. Additional credit for the vegetation in the rain garden is counted separately.

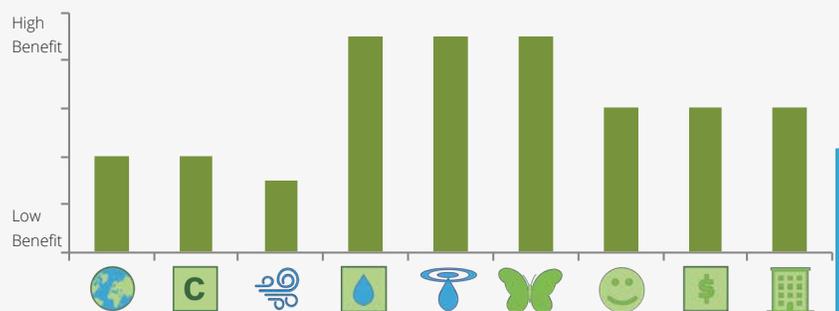


Photo by Alecia Goldstein, EPA

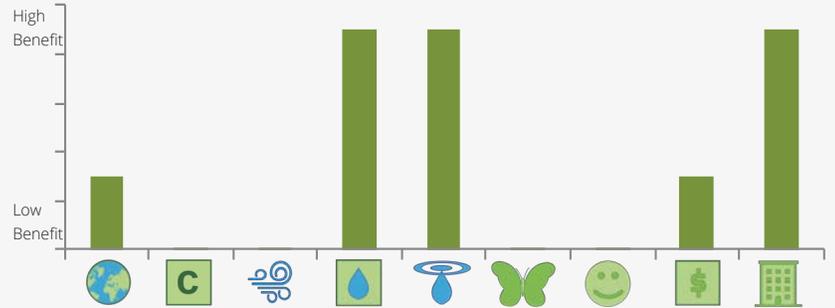


### POROUS PAVEMENT

Factor: 0.4

Cost: \$\$

Porous pavement allows water to pass through voids in the paving material or between pavers while providing a stable, load-bearing surface. Permeable interlocking pavers may also be used if installed with gaps to allow stormwater to infiltrate into the subsurface.

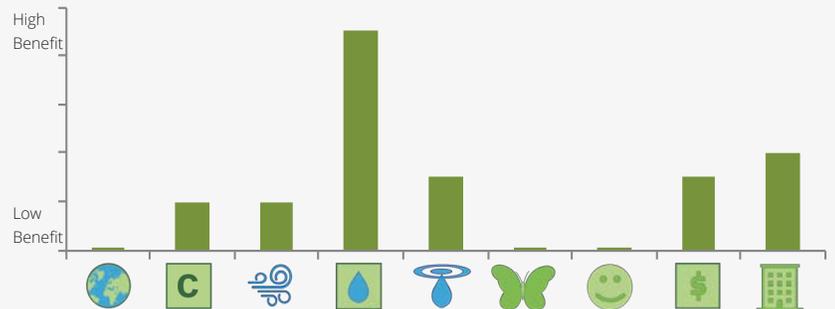


### CISTERN

Factor: 0.3

Cost: \$\$ - \$\$\$

Cisterns can be located above or below ground and provide a reservoir for temporarily storing rainwater or a/c condensate. Credit is given for the storage capacity of the cistern.

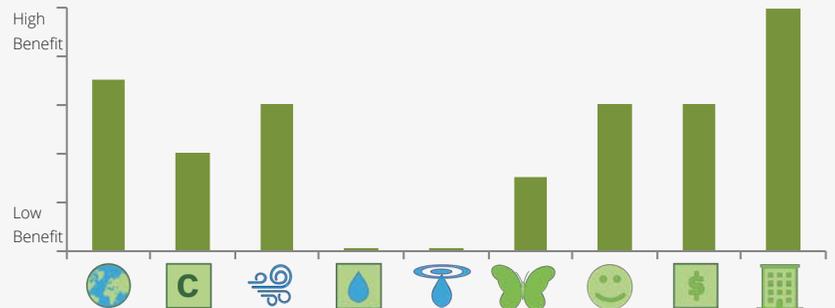


### VEGETATED WALL

Factor: 0.5

Cost: \$ - \$\$\$

Vegetated walls are vertical surfaces created by vines and climbing plants that are rooted in soil or containers, growing upwards or cascading down. Vegetated walls include walls, screens, or trellises with climbing vines, trailing plants, or espaliered trees.





### BONUS OPTION: AUXILIARY WATER IRRIGATION

Factor: 0.2

Cost: \$

Auxiliary water, as defined by the plumbing code, consists of a/c condensate, rainwater, or reclaimed stormwater collected from the site and reused for landscape irrigation purposes.



### BONUS OPTION: POLLINATOR RESOURCES

Factor: 0.1

Cost: \$

This bonus offers additional credit for native plant species that have been identified by the Xerces Society for Invertebrate Conservation as providing additional resources for pollinators.

Photo by Joe Marcus, Lady Bird Johnson Wildflower Center



### BONUS OPTION: SUSPENDED PAVEMENT SYSTEM

Factor: 0.2

Cost: \$\$ - \$\$\$

Paving techniques designed to transfer the load from pavement directly to the subsoil, rather than the topsoil media, promote additional soil volume for trees that may otherwise be unavailable with a conventional pavement system.

# selected case study

## SOUTH CONGRESS HOTEL

Functional Green Score: 0.33

Use: Hotel

Site Area: 0.95 acres

Impervious Cover: 95%

This hotel currently achieves a score greater than the target score of 0.3 through the use of planted trees, shrubs, ornamental plants, ground cover, and vegetated walls creatively layered and integrated into the site.



Photo by Google Maps

Google



Photo by Adam Barbe

# selected case study

## AUSTONIAN

Functional Green Score: 0.31

Use: Mixed-use

Site Area: 0.65 acres

Impervious Cover: 100%

This residential high-rise currently achieves a score greater than the target score of 0.3 with planted trees, an extensive and intensive green roof, shrubs, ornamental grasses, ground cover, a cistern, and auxiliary water irrigation of the landscape.



Photo by TBG Partners

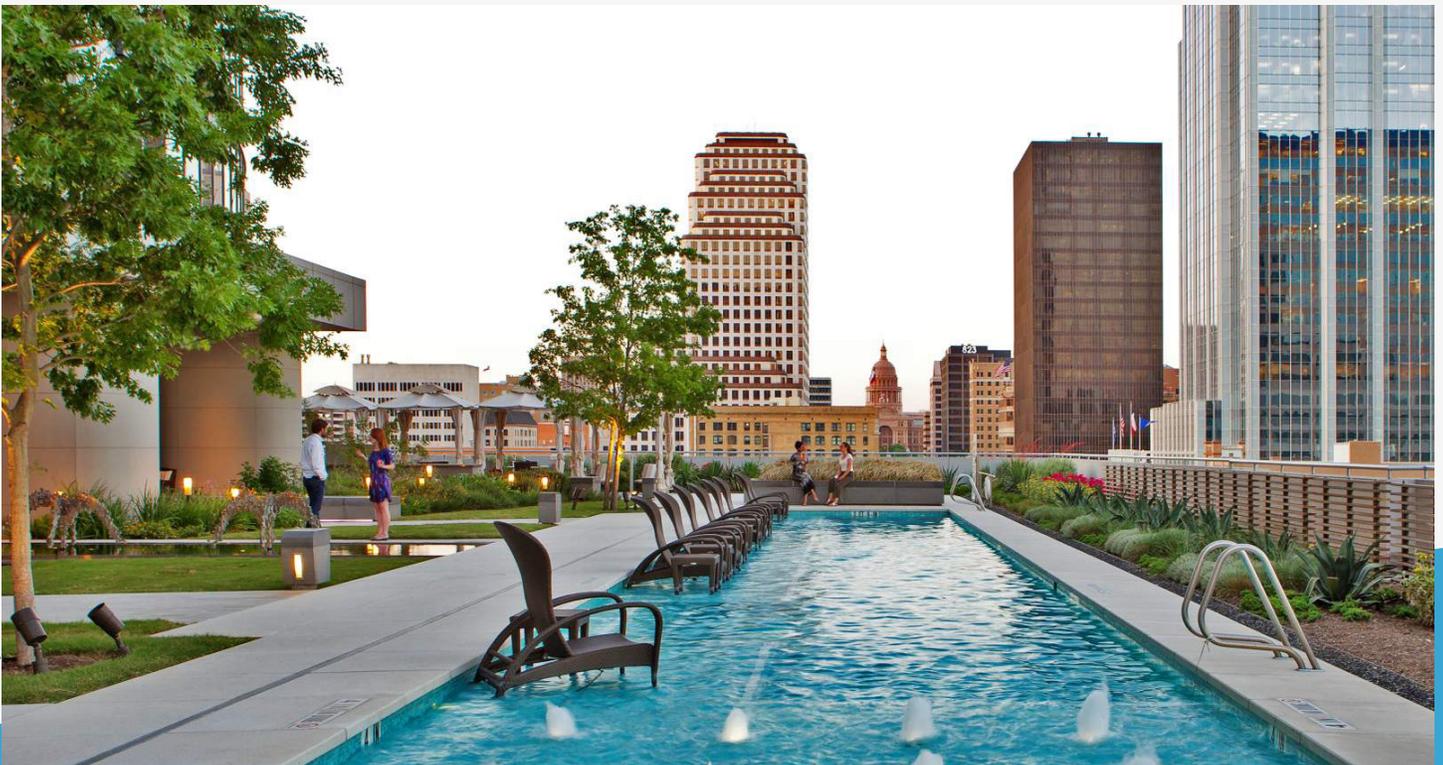


Photo by TBG Partners

# selected case study

## GALILEO AT 25<sup>th</sup>

Functional Green Score: 0.22

Use: Residential

Size: 0.33 acres

Impervious Cover: 90%

This residential low-rise currently achieves a score of 0.22 with planted trees, shrubs, and ground cover. One way the project could reach the target score of 0.3 is with the additions of:

- + 1000 sq. ft. vegetated wall;
- + 2,710 gallon cistern;
- + Landscape irrigation with auxiliary water; and
- + Suspended pavement system.

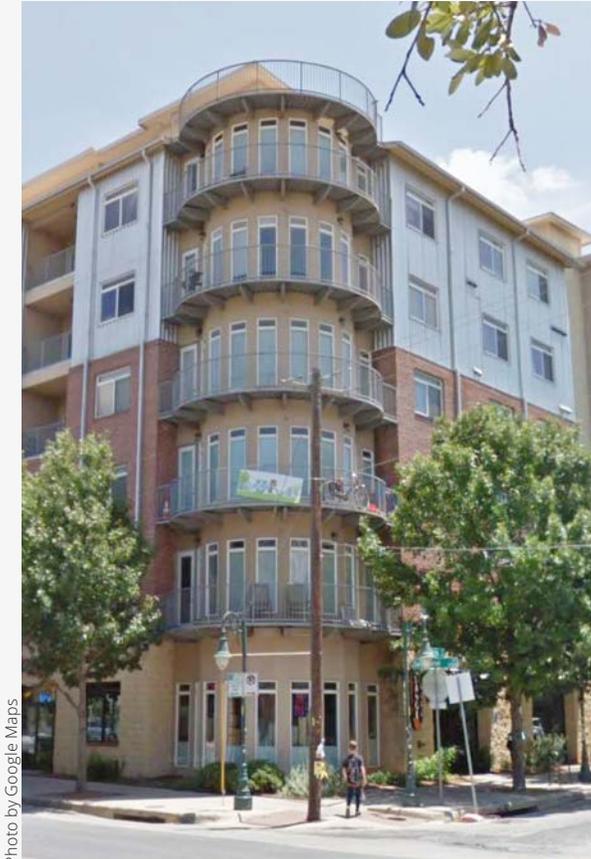


Photo by Google Maps

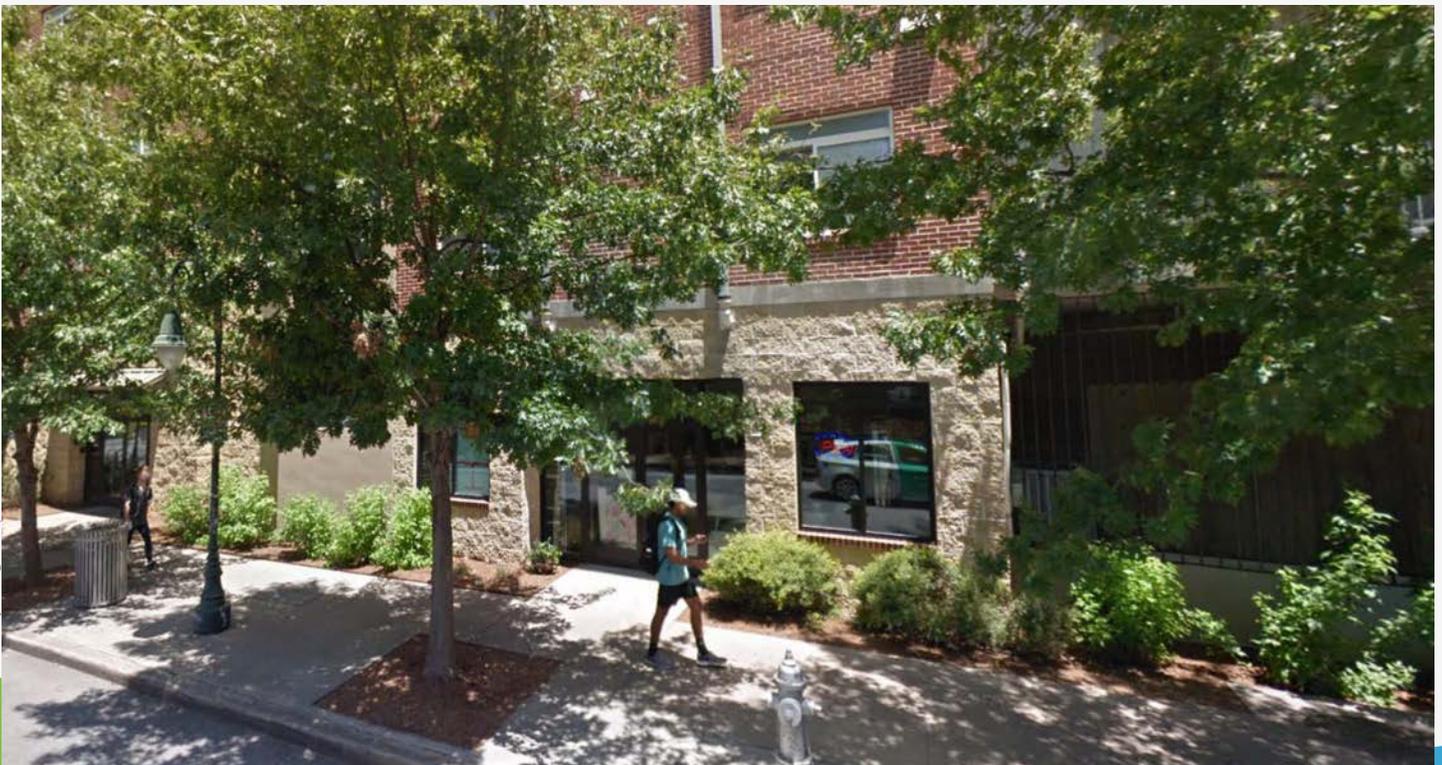


Photo by Google Maps

# selected case study

## 5<sup>th</sup> + COLORADO



Functional Green Score: 0.13

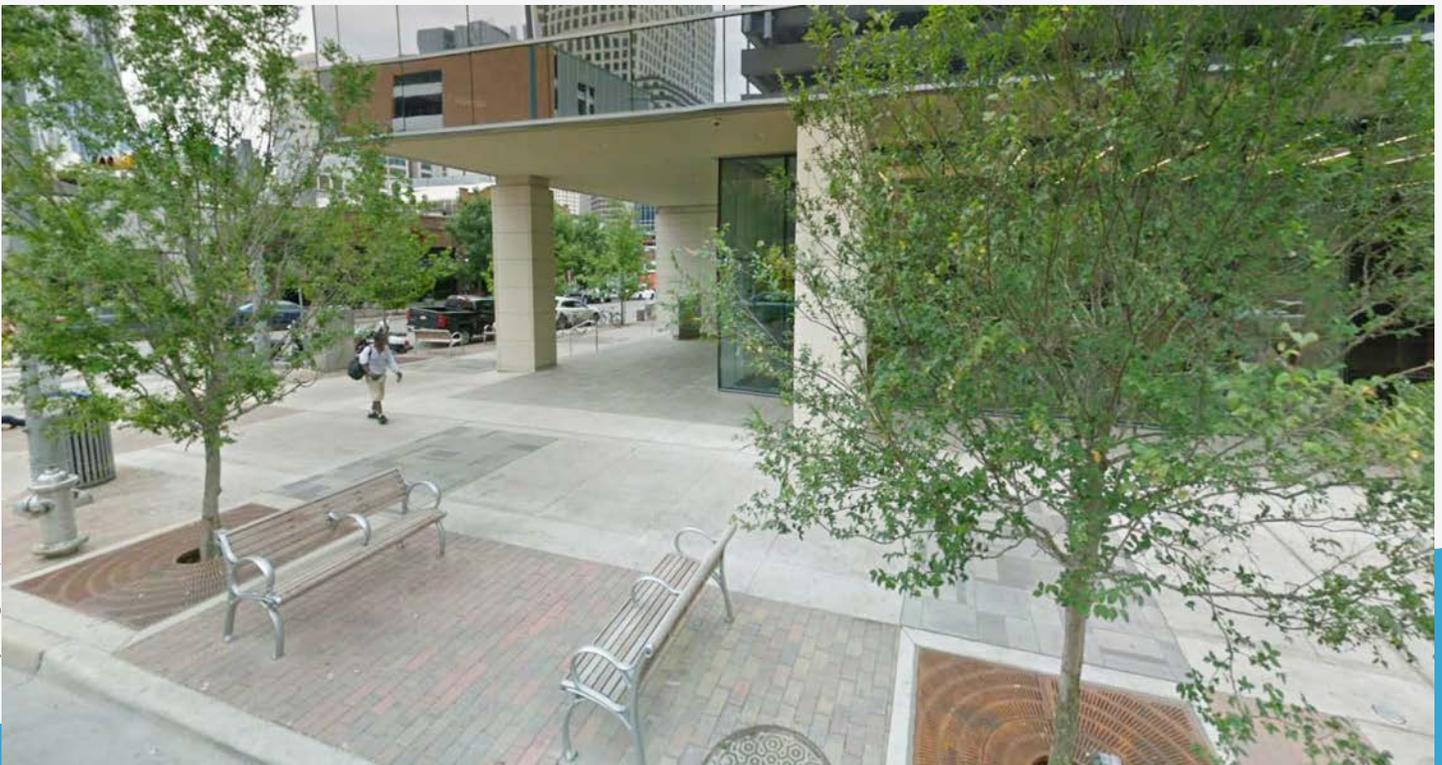
Use: Office

Site Area: 0.66 acres

Impervious Cover: 100%

This downtown office high-rise currently achieves a score of 0.13 with planted trees and a suspended pavement system. The project could reach the target score of 0.3 with the additions of:

- + 5000 sq. ft. extensive green roof;
- + 6,177 gallon cistern; and
- + Landscape irrigation with auxiliary water.



## Help us get it right.

Austin's Land Development Code is getting its most significant update in thirty years.

As we work toward adoption of the new code, we invite you to review and comment on the draft code document, ask questions, and stay connected.

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# CODE NEXT



# Civic Open Space

**KEY**

Green text = new or modified language for Draft 2.

Purple text = new or modified language for Draft 3.

# Article 23-4C: General to All Development

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## Contents

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### Division 23-4C-1: Large Site Requirements

- 23-4C-1010 Applicability
  - 23-4C-1020 Internal Circulation
  - 23-4C-1030 Common Open Space
  - 23-4C-1040 Civic Open Space
- 

### Division 23-4C-2: Civic Open Space

- 23-4C-2010 Purpose
- 23-4C-2020 Applicability and Conflict
- 23-4C-2030 Civic Open Space Design
- 23-4C-2040 Civic Open Space Types Overview
- 23-4C-2050 Civic Open Space Requirements
- 23-4C-2060 Neighborhood Park
- 23-4C-2070 Greenbelt
- 23-4C-2080 Stormwater Amenity
- 23-4C-2090 Linear Park
- 23-4C-2100 Green
- 23-4C-2110 Square
- 23-4C-2120 Plaza
- 23-4C-2130 Pocket Plaza/Paseo
- 23-4C-2140 Pocket Park
- 23-4C-2150 Nature Space
- 23-4C-2160 Community Garden

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# Division 23-4C-1: Large Site Requirements

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**Contents**

23-4C-1010 Applicability . . . . . 1  
23-4C-1020 Internal Circulation . . . . . 1  
23-4C-1030 Common Open Space . . . . . 4  
23-4C-1040 Civic Open Space . . . . . 7

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## 23-4C-1010 Applicability

- (A) Except as provided in Subsection (B), a site that is three or more acres shall comply with Section 23-4C-1020 (Internal Circulation).
- (B) A site that is subdivided into two or more lots that are less than three acres in size shall comply with Chapter 23-5 (Subdivision) and Article 23-9H (Connectivity).
- (C) A site that is one acre but less than four shall comply with Section 23-4C-1030 (Common Open Space).
- (D) A site that is four acres or more shall comply with Section 23-4C-1040 (Civic Open Space).

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## 23-4C-1020 Internal Circulation

- (A) Except as provided in Subsections (B) and (C), a site that is three or more acres shall comply with this section.
- (B) A site that is subdivided into two or more lots that are less than three acres each, shall comply with Chapter 23-5 (Subdivision) and Article 23-9H (Connectivity).
- (C) A site zoned park, residential house scale, or residential multi-unit is not subject to this section.
- (D) A site shall comply with Subsection (M) if:
  - (1) It is at least three acres but less than five acres; or
  - (2) It is located outside of the urban core; and
    - (a) The proposed development is entirely residential;
    - (b) Each building or amenity is connected with sidewalks;
    - (c) Each internal block complies with Section 23-9H-1050 (Block Lengths); and
    - (d) Vehicular connectivity provides for internal circulation.

- (E) A site must provide a shaded sidewalk for at least 50 percent of the internal circulation route that is associated with building frontage.
- (F) In this section, a sidewalk is shaded if trees are planted no more than 30 feet on center or a four foot awning unless the sidewalk is subject to requirements for a specific roadway type.
- (G) Development must provide an internal circulation route that establishes blocks, forms an interconnected, grid-like transportation system, and complies with this section.
- (H) **Project Circulation Plan**
  - (1) As part of the site plan, an applicant must submit a project circulation plan that identifies the internal circulation route.
  - (2) The project circulation plan must demonstrate that the development:
    - (a) Complies with this subsection;
    - (b) Integrates with existing and planned streets, bicycle and pedestrian facilities, and trails in the surrounding area; and
    - (c) Is consistent with area mobility goals set forth, in the Transportation Plan or an approved collector plan.
  - (3) **Review and Approval**
    - (a) A project circulation plan must be reviewed and approved by the director.
    - (b) If no reasonable alternatives are available, the director may approve a project circulation plan that includes blocks that are bounded by railroad right-of-way, subdivision boundary lines, or natural features.
    - (c) The director may approve revisions to the project circulation plan after considering the circulation characteristics of a proposed development plan, the need for access to adjoining properties, and the compatibility of surrounding development.
    - (d) The director may waive a standard required in a project circulation plan if the director finds that the standard is not necessary because the nature of the proposed development, the existence of surrounding incompatible development, or other factors unique to the property which make strict compliance infeasible.
- (I) **Internal Sidewalk Network**
  - (1) Unless no buildable area exist on one side, a development must provide a sidewalk along each side of an internal circulation route.
  - (2) Where required, a sidewalk must comply with the requirements for a public sidewalk in Article 23-9E (Driveway, Sidewalk, Urban Trail, and Right-of-Way Construction).
- (J) **Building Placement.** A Building shall be oriented along an internal circulation route or the adjacent public roadway and shall comply with the applicable placement standards as established in Article 23-4D (Specific to Zones).

- (K) **Off-Street Parking.** Off-street parking may not be located between the internal circulation route and the corresponding street-facing facade line.
- (L) **On-Street Parking.**
  - (1) Except as otherwise provided, on-street parallel, head-in angle, and reverse angle parking are allowed on an internal circulation route, if
    - (a) The parking complies with fire access standards, and
    - (b) When the internal circulation route is a public street, the parking complies with the Transportation Criteria Manual and the director of the Transportation Department approves it.
  - (2) If the internal circulation route is intended to accommodate bicycles, head-in and angle parking is not permitted.
- (M) **Vehicular and Pedestrian Connections Between Sites**
  - (1) **Requirements.** A development shall comply with the requirements of this subsection:
    - (a) The development must connect to an existing private drive or public street on adjacent site using a private drive or public street connection or, if connections are not feasible, provide a stub-out; and
    - (b) If the property line is adjacent to a public street, the development must provide direct pedestrian and bicycle access from the public street that is adjacent to the property line to a customer entrance. A pedestrian or bicycle access point shall comply with any applicable requirements and must be fully accessible during operating hours.
  - (2) **Additional Measures to Improve Connectivity.**
    - (a) Except as otherwise provided, a site must incorporate at least two of the options in Table 23-4C-1020(A).
    - (b) If surface parking equals more than 125 percent of the parking required by the applicable zone standard, the site must incorporate at least three of the options in Table 23-4C-1020(A).

Table 23-4C-1020(A) Additional Measures to Improve Connectivity	
Option	Description/Comments
<b>Pedestrian and Bicycle Access and Facilities</b>	
Provide connection to adjacent residential development.	Provide connection to the property line, and to an existing sidewalk if one is present on the adjacent site. A development complies with this option when includes a sidewalk that connects the project site to an adjacent residential development and that runs along a public roadway where no sidewalk currently exists or where the existing sidewalk does not meet the width standards in this section.

Provide connections from adjacent parkland, trail or sidewalk.	Provide connection and access to the building entrance from the system located on parkland that is adjacent to the site. The access points must comply with applicable requirements and be fully accessible during operating hours.
Provide easement for Multi-Use Trail.	Provide a public access easement for the construction of a multi-use trail that connects to an existing of proposed trail described in the City of Austin Trails Master Plan, Austin Parks and Recreation Long-Range Plan, Sidewalk Master Plan or Bicycle Master Plan. Requires approval of the Public Works Director.
Provide shower and locker facilities for employees and increase required bicycle parking by 10%.	Enhance physical fitness opportunities and multi-modal connectivity.
Provide secure indoor bicycle storage in building or parking structure.	
Construct a sidewalk along a public street frontage.	Exceed applicable sidewalk standards.
Limit curb cuts.	

**Heat Island Effect Reduction**

- Provide shaded sidewalks along all building facades that are visible from the public right-of-way.
- Provide solar power shading devices in parking lots.
- Provide at least 10% of parking underground or within a parking structure.

**Other**

- Incorporate a transit stop into the project.
- Locate internal utility lines in drive aisles or Internal Circulation Routes, rather than under parking areas.

**23-4C-1030 Common Open Space**

- (A) **Purpose.** This section establishes requirements for common open spaces, which serve to organize large site development, shape the relationship between different land uses, and provide focal points and anchors for pedestrian activity. Common open spaces serve similar purposes as civic open space and parkland dedication. The requirements in this section complement requirements established for civic open space and parkland dedication.
- (B) **Amenity Required.** A site that is one acre or more shall provide common open space that complies with the requirements established in Table 23-4C-1030(A) Open Space and Amenities). A site partially complies with this section, if
  - (1) The site provides civic open space that complies with Division 23-4C-2 (Civic Open Space); or
  - (2) The land dedicated in a recreation easement to the City for parkland dedication complies with Article 23-3B (Parkland Dedication).

Table 23-4C-1030(A) Open Space and Amenities				
Amenity Type	Minimum Depth	Minimum Width	Total Area (min.)	Additional Requirements
Natural and undeveloped common open space	—	—	—	For use by residents, employees, and/or visitors for either active or passive recreation.
Landscape area	20 ft	20 ft	650 sf	Landscape area must be other than the area required by Division 23-4E-4 (Landscape); Must include pedestrian amenities.
Patio or plaza with outdoor seating areas	20 ft	20 ft	650 sf	Must include fully or partially shaded spaces with seating. Must be patio, plaza, or seating other than as required to comply with Subsection (C) (3).
Play area suitable for children under 9	20 ft	20 ft	650 sf	Must comply with Consumer Product Safety Commission guidelines for playgrounds, ASTM International standards, impediments (e.g., fencing, landscaping) between vehicular drives and activity areas.
Spaces that provide educational, historic, or cultural features, such as culinary, therapeutic or sculptural gardens; soundscapes, and interactive water features	—	—	—	—
Swimming pools, wading pools, or splash pads	—	—	—	—
Stormwater Control Measures	—	—	—	Must be designed as an amenity and approved by the director.
Multi-use trail	—	—	—	Must be or proposed in the City of Austin Trails Master Plan, Austin Parks and Recreation Long-Range Plan, Sidewalk Master Plan, or Bicycle Master Plan, or other trail connections as approved by the director.
Basketball, tennis, volleyball, or other sport courts or playing fields	—	—	—	—
A transit plaza incorporated within adjacent private property.	—	—	—	Must be adjacent to a Capital Metro Rapid stop or station
A combination of the above-listed amenities	—	—	—	—

### (C) Location Criteria

- (1) To the maximum extent feasible, an applicant shall prioritize preserving significant natural and scenic resources for use as common open space.

- (2) The director may use all applicable plans, maps, and reports to determine whether significant resources exist on a proposed site that should be protected or limited in access. The following resources are preferred for use as common open space:
- (a) a wetland;
  - (b) a floodplain;
  - (c) a rimrock;
  - (d) a lakes, river, or stream riparian corridor;
  - (e) a tree preservation area;
  - (f) a karst area;
  - (g) a cultural or historically significant structure, landscape, feature, or place; and
  - (h) an agricultural land that is used to cultivate local produce.
- (3) If a trail, park, or other public space exists or is proposed in the City of Austin Trails Master Plan, Austin Parks and Recreation Long-Range Plan, Sidewalk Master Plan, or Bicycle Plan within or adjacent to the site to be developed, the common open space must be located to adjoin, extend, and enlarge the existing or proposed trail, park, or other open area. The director may require a public access easement to ensure public access to these facilities.
- (4) If a BRT station is adjacent to the site to be developed, a portion of the common open space must, to the maximum extent feasible, be located to adjoin, extend, and enlarge the existing or permitted station.
- (5) A site that is located outside of the Downtown Core (DC) zones and is more than one acre, must provide at least 150 square feet, plus an additional 100 square feet for, each acre of open space. The amount of open space required may not to exceed 1,000 square feet.
- (D) **Areas Not Credited.** The following areas are not common open space:
- (1) an area within a required street setback;
  - (2) a public or private street or right of way;
  - (3) an area used for off-street parking;
  - (4) an area used for loading;
  - (5) a driveway;
  - (6) a service area; and
  - (7) a stormwater control measures , unless the director approves the measure as a publicly available amenity.
- (E) **Design Criteria.** An area used for common open space shall comply the requirements of this subsection:
- (1) Unless the land includes sensitive natural resources, a common open space area must be readily accessible and usable.
  - (2) A common open space area must be compact and contiguous unless the common open space is used as a continuation of an adjacent or adjoining trail, connection to

a transit station, or specific or unique topographic features that require a different configuration.

- (3) The surface of the common open space must be suitable for outdoor activities, such as lawn or asphalt for designated recreation areas.
  - (4) Not more than 30 percent of the required common open space may be located on a roof, balcony, or other area above ground level, except as otherwise provided in this section. Required common open space cannot include areas occupied by mechanical equipment or structures not associated with designated recreation areas.
  - (5) Up to 50 percent of the required common open space may be located on a roof, balcony, or other area above ground level, if a minimum of 50 percent of the common open space is located on the roof, balcony, or other area above ground level is designed as a vegetated or green roof.
  - (6) If the adjacent property is zoned residential house scale, common open space on a roof, balcony, or other area above ground level shall be screened from the view of the adjacent property and shall comply with the standards in Division 23-4E-4 (Landscape).
  - (7) Up to 50 percent of ground level common open space may be covered by a fixed manmade obstruction, including a roof, balcony, or building projection.
  - (8) Common open space that is located above ground level may be covered if, at least one exterior side is open and unobstructed. A side is not obstructed if railings or balustrades are installed.
- (F) **Maintenance.** An owner of the development shall maintain a common open space area that is associated with the development.

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## 23-4C-1040 Civic Open Space

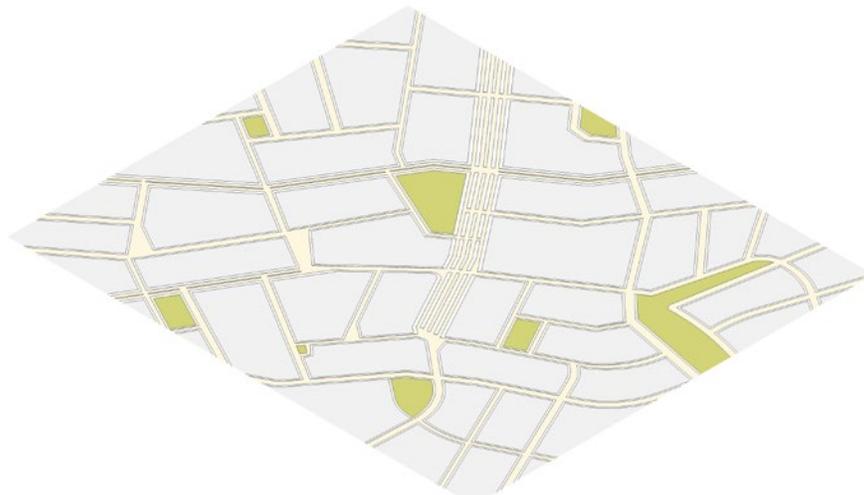
### (A) General

- (1) An applicant for a site plan or subdivision must designate civic open space that complies with the requirements of Division 23-4C-2 (Civic Open Space).
- (2) Civic open space shall comply with the design standards established in Division 23-4C-2 (Civic Open Space).
- (3) An exemption described in this Section does not exempt the development from any applicable parkland dedication required by Article 23-3B (Parkland Dedication).

### (B) Civic Open Space Amounts and Locations

- (1) Land dedicated to the City to meet the applicable parkland dedication requirements in Article 23-3B (Parkland Dedication) may contribute to satisfying the requirements of this section.

- (2) Except as provided in Subsection (B)(3), an applicant for a site plan or subdivision shall designate at least 10 percent of the net development acreage as civic open space. The net development acreage does not include street rights-of-way.
- (3) An application for a site plan or subdivision that is less than eight acres and is located within one-quarter mile of an existing park that is at least one acre and is accessible to the public is not required to provide open space.
- (4) An applicant shall locate each residential lot within:
  - (a) A quarter mile of an existing proposed civic open space if the development is located within the urban core; and
  - (b) A half mile of an existing or proposed civic open space if the development is located outside of the urban core.
- (5) For a site that is more than 15 acres, civic open space shall be distributed throughout the site and each civic open space shall be at least a quarter in size. See Figure 23-4C-1040(1).



*Figure 23-4C-1040(1) Distributing civic open spaces throughout the community ensures that all residents have access to an open space within walking distance of their homes.*

- (C) **Public Access and Visibility.** Public access and visibility must be maintained through the use of:
  - (1) Single-loaded frontage streets where development is on one side and open space on the other;
  - (2) A multi-use trail that is publicly accessible to bikes and pedestrians; or
  - (3) A method that provides similar public access and visibility of the open space that is appropriate in the zone and use of the space.
- (D) **Ownership and Maintenance**
  - (1) An area designated as civic open space must remain civic open space through one or more of the following options:

- (a) Establishing an entity that is responsible for managing and maintaining the area for its intended purpose;
  - (b) Conveyance of the land to a property owners' or homeowners' association that is responsible for managing and maintaining it for its intended purposes;
  - (c) Conveyance of the land to a third party beneficiary, such as a nonprofit environmental or civic organization, that is organized for, capable of, and willing to accept responsibility for managing and maintaining the land for its intended purposes; or
  - (d) Dedication of the land to the City or other appropriate governmental entity that is organized for, capable of, and willing to accept responsibility for managing and maintaining the land for its intended purposes.
- (2) If the area designated as civic open space is conveyed to a property owners' or homeowners' association, the applicant must submit the following documents to the City for review and approval.
    - (a) The association's bylaws;
    - (b) A legal description of the area designated as civic open space; and
    - (c) All documents that governing ownership, maintenance, and use restrictions for the civic open space.
  - (3) Membership in the property owners' or homeowners' association shall be mandatory and automatic for all who purchase land, dwelling units, or structures in the development and their successors in title. The property owners' or homeowners' association must have the legal authority to compel members to pay a proportionate share of the costs associate with the maintenance of common areas and facilities.
  - (4) Before the building official may approve the first building permit for the development, the applicant must:
    - (a) Establish the property owners' or homeowners' association;
    - (b) Record the property owners' or homeowners' association documents; and
    - (c) If necessary, fund the property owners' or homeowners' association operations.
  - (5) If the civic open space is conveyed to a third party beneficiary, such as a nonprofit environmental or civic organization, then the conveyance must include deed restrictions that:
    - (a) govern the use, management, and maintenance of the civic open space;
    - (b) run with the land in perpetuity; and
    - (c) include any other provisions the City Attorney deems necessary and appropriate to fulfill the requirements of this section.
  - (6) If the civic open space is privately owned, then deed restrictions, covenants, or other legal instruments related to private ownership must ensure the civic open space will be managed and maintained for its intended purposes.

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# Division 23-4C-2: Civic Open Space

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## Contents

23-4C-2010	Purpose . . . . .	1
23-4C-2020	Applicability and Conflict . . . . .	1
23-4C-2030	Civic Open Space Design . . . . .	2
23-4C-2040	Civic Open Space Types Overview . . . . .	2
23-4C-2050	Civic Open Space Requirements . . . . .	5
23-4C-2060	Neighborhood Park . . . . .	6
23-4C-2070	Greenbelt . . . . .	7
23-4C-2080	Stormwater Amenity . . . . .	8
23-4C-2090	Linear Park . . . . .	9
23-4C-2100	Green . . . . .	10
23-4C-2110	Square . . . . .	11
23-4C-2120	Plaza . . . . .	12
23-4C-2130	Pocket Plaza/Paseo . . . . .	13
23-4C-2140	Pocket Park . . . . .	14
23-4C-2150	Nature Space . . . . .	15
23-4C-2160	Community Garden . . . . .	16

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## 23-4C-2010 Purpose

This division sets the requirements for a wide range of civic open space types that are appropriate for the City.

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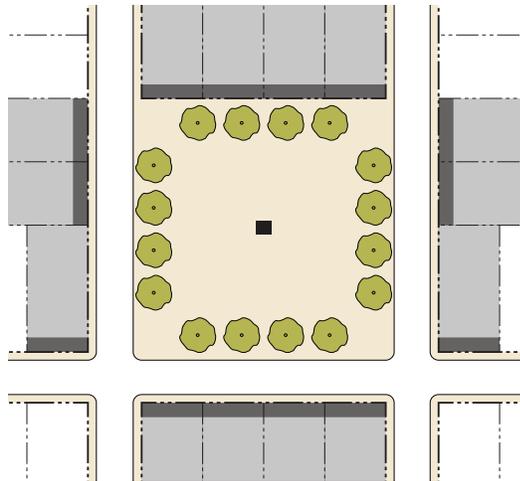
## 23-4C-2020 Applicability and Conflict

- (A) This division applies to all civic open spaces.
- (B) A required civic open space shall comply with the requirements in this division, Article 23-4D (Specific to Zones) and Division 23-4C-1 (Large Site Requirements).
- (C) The requirements on this division shall be implemented in a manner that allows a development to comply with both the requirements for civic open space and parkland dedication.
- (D) Civic open space that complies with this division may be used to satisfy Section 23-4C-1030 (Common Open Space) if the civic open space is publicly accessible.
- (E) The images in Sections 23-4C-2060 to 23-4C-2160 are illustrative, not regulatory.

## 23-4C-2030 Civic Open Space Design

### (A) Building Frontage

- (1) The facade on a lot attached to or across a thoroughfare from a civic open space must be designed so that primary entrances and the primary facade must front onto the civic space for a minimum of three quarters of the open space perimeter, in combination with the allowed frontage.



*Civic Open Space Diagram showing building front in dark grey.*

Key:  = front

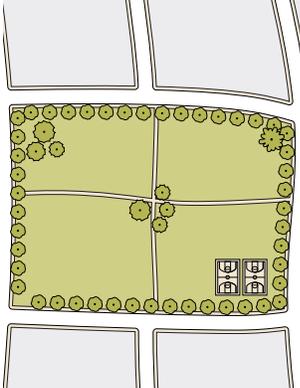
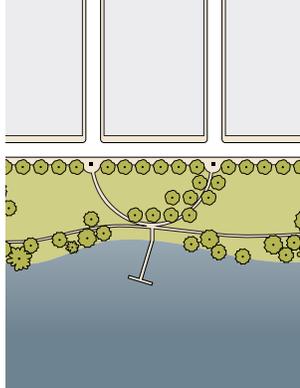
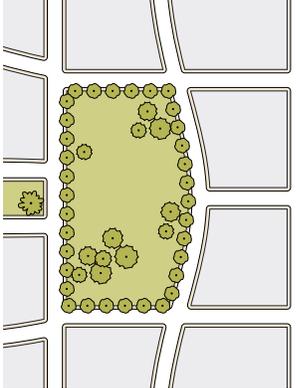
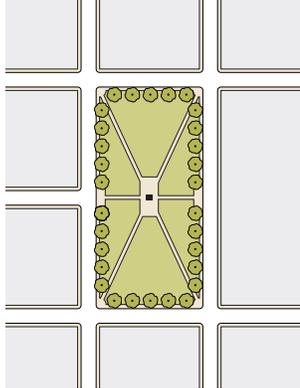
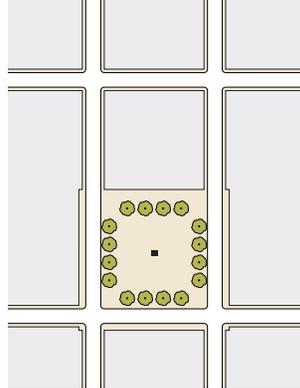
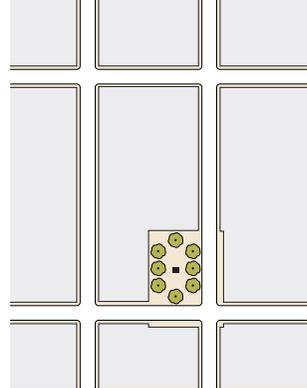
### (B) Accessory Structure Standards.

- (1) An accessory structure within a civic open space, including a restroom, an open-air pavilion, a gazebo, a picnic shelter, or an outdoor theater is not subject to the physical requirements of the Building Form Standards in Article 23-4D (Specific to Zones).
- (2) An accessory structure described in Paragraph (1) shall be designed and furnished in a manner that is consistent with the character of the zoning district in which the accessory structure is located. The director may require an accessory structure to maintain building setbacks, frontage, massing, and character similar to adjacent developments.

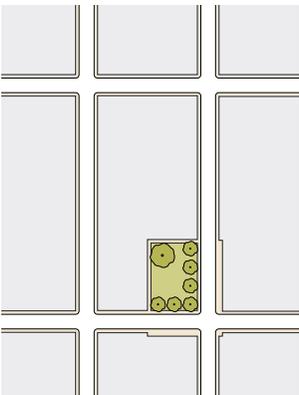
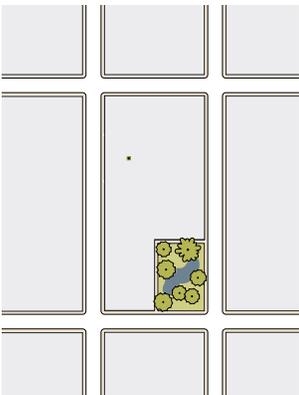
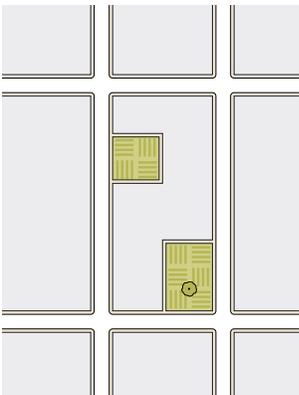
## 23-4C-2040 Civic Open Space Types Overview

- (A) This division provide the zones with a diverse palette of parks and other publicly accessible civic open spaces that are essential components of walkable urban environments.
- (B) Table 23-4C-2040(A) (Civic Open Space Types Overview) describes the types of civic open spaces. Nature space, community garden and storm water amenity, may be incorporated into any of the other civic open space types or stand alone.

**Table 23-4C-2040(A) Civic Open Space Types Overview**

<p><b>Neighborhood Park</b></p> 	<p><b>Greenbelt</b></p> 	<p><b>Stormwater Amenity</b></p> 	<p><b>Linear Park</b></p> 
<p>Medium-scale public open space that provides basic recreational opportunities close to home.</p>	<p>Natural corridor that often follows a river, creek, ridgeline, valley, or other linear public open space.</p>	<p>Large public open space that accommodates required water quality and/or detention ponds with trails and other natural recreation amenities.</p>	<p>Linear space for community gathering and strolling for nearby residents and employees.</p>
<p><b>Green</b></p> 	<p><b>Square</b></p> 	<p><b>Plaza</b></p> 	<p><b>Pocket Plaza/Paseo</b></p> 
<p>Public open space available for civic purposes, commercial activity, informal recreation, and other informal uses.</p>	<p>Public open space available for civic purposes, commercial activity, recreation, and other informal uses.</p>	<p>Public open space that offers abundant opportunities for civic gathering.</p>	<p>Small-scale public open space that serves as an impromptu gathering place for civic, social, and commercial purposes.</p>

**Table 23-4C-2040(A) Civic Open Space Types Overview (continued)**

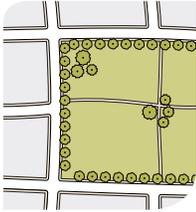
Pocket Park	Nature Space	Community Garden
		
<p>Small-scale public open space intended to provide recreational opportunities where (publicly accessible/park) space is limited.</p>	<p>An open space where children of all ages and abilities and adults play and learn by engaging with diverse natural elements, materials, and organisms.</p>	<p>A limited open space providing garden plots to nearby residents for small-scale cultivation of plants or trees that produce food.</p>

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**23-4C-2050 Civic Open Space Requirements**

- (A) **General Character.** The character of a civic open space shall comply with one of the design standards described in this Subsection.
  - (1) **Naturalistic Design.** A civic open space that is composed in a natural manner with no formal arrangement of elements.
  - (2) **Formal Design.** A civic open space that is composed in a more rigid layout that follows geometric forms and has trees and other elements arranged in formal patterns.
  - (3) **Hybrid Design.** A civic open space that is composed to have a mix of naturalistic and formal design characteristics.
- (B) **Size and Location.** A civic open space shall comply with the size, the orientation of the space to road and building frontage, and impervious cover limits established in this division.
- (C) **Typical Uses.** A civic open space may include one or more of the uses or facilities described in this division. The director may approve a use of facility that is not described in this division if the use or facility is consistent with the purpose of civic open space.
- (D) **Parking.** The director shall require a specific number of parking spaces for a civic open space that is more than five acres.
- (E) **Shade.** The design shall make shade integral to the civic open space.

**23-4C-2060 Neighborhood Park**



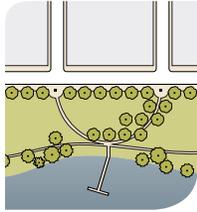
*General Note: Images on this page are illustrative, not regulatory.*

- (A) Description. A neighborhood park is a medium-scale open space that provides informal recreational opportunities near residential development. It is accessible by foot or bicycle; and it reflects to demographic and cultural characteristics of the neighborhood. This type of open space should be located in the center of a single neighborhood or in close proximity to a trail system or elementary school.
- (B) General Character
  - (1) A neighborhood park qualifies as a naturalistic or hybrid design civic open space.
  - (2) The landscape treatment varies from traditional grass and trees to more natural areas with native plants, wildflowers, and less intensive maintenance techniques.
  - (3) The facilities may include:
    - (a) Open play areas;
    - (b) Open shelters with picnic tables;
    - (c) Playgrounds;
    - (d) Basketball; or
    - (e) Tennis courts
- (C) Typical Uses. A neighborhood park may be used for informal recreation, group gathering, or nature play.
- (D) The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2060(A) (Size and Location).

**Table 23-4C-2060(A) Size and Location**

Size	2-30 acres
Location	Within 1 mile of residences
Perimeter along Street	50% (min.)
Impervious Cover	50% (max.)

**23-4C-2070 Greenbelt**



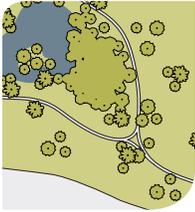
General Note: Images on this page are illustrative, not regulatory.

- (A) Description. A greenbelt is a natural corridor that often follows a river, creek, ridgeline, valley, or other linear public open space. It can serve multiple functions, such as hike and bike trails, a linear park system, a wildlife corridor, an area for flood control, a tool to preserve water quality, or a bicycle and pedestrian route.
- (B) General Character
  - (1) A greenbelt qualifies as a naturalistic design civic open space.
  - (2) It functions as multi-use trail.
  - (3) A trail is lined with trees for shade; and is lit for safety.
- (C) Typical Uses. A greenbelt may be used for informal recreation, group gathering, trailheads, or nature play.
- (D) The size, perimeter along a street, and impervious cover are described in Table 23-4C-2070(A) (Size and Location).

**Table 23-4C-2070(A) Size and Location**

Length	1 mile (min.)
Width	30' min.; 60' avg.
Perimeter along Street	25% (min.)
Impervious Cover	10% (max.)

**23-4C-2080 Stormwater Amenity**

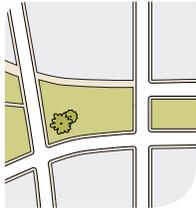


*General Note: Images on this page are illustrative, not regulatory.*

- (A) Description. A stormwater amenity is a civic open space that accommodates both recreational amenities and required stormwater controls, including flood detention and green stormwater infrastructure such as rain gardens. The area is designed to be attractive and open to public view.
- (B) General Character
  - (1) A stormwater amenity qualifies as a naturalistic, formal, and hybrid design civic open space.
  - (2) The landscape treatment varies from plantings to more natural areas with native plants and wildflowers.
  - (3) The design limits the use of hard edges.
  - (4) A recreational trail or sidewalk connects to nearby pedestrian sidewalks.
  - (5) A stormwater amenity shall comply with the Environmental Criteria Manual
- (C) Typical Uses. A stormwater amenity may be used for informal recreation, trails, and overlooks but is not used for a dog park or organized sports.
- (D) The pedestrian access and impervious cover are described in Table 23-4C-2080(A) (Size and Location).

Table 23-4C-2080(A) Size and Location	
Pedestrian Access	50% of perimeter (min.)
Impervious Cover	10% (max.) unless approved by the Planning Director

**23-4C-2090 Linear Park**



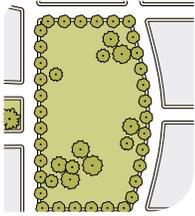
*General Note: Images on this page are illustrative, not regulatory.*

- (A) Description. Linear space for community gathering and strolling defined by the tree-lined streets and nearby buildings that front the park. Due to their narrow dimensions, linear parks will be for informal use. Linear parks can serve an important role as a green connector between destinations.
- (B) General Character
  - (1) Formal or hybrid design.
  - (2) Hardscape path. Spatially defined by buildings and tree-lined streets.
  - (3) Shaded. No fencing.
- (C) Typical Uses. Informal recreation; strolling, walking, running, and biking; casual seating; art exhibits.
- (D) The size, location, and impervious cover are described in Table 23-4C-2090(A) (Size and Location).

**Table 23-4C-2090(A) Size and Location**

Width	60' (min.)
Impervious Cover	30% (max.)
Must front at least one street	

**23-4C-2100 Green**



*General Note: Images on this page are illustrative, not regulatory.*

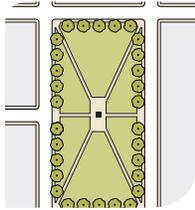
- (A) Description. Public open space available for civic purposes, commercial activity, informal recreation, and other informal uses.
- (B) General Character
  - (1) Hybrid or naturalistic design.
  - (2) Spatially defined by street frontage, building frontages, and landscaping. Lawns, trees, and shrubs naturally disposed. Open shelters and paths formally disposed.
- (C) Typical Uses. Casual seating, Informal recreation, no organized sports, commercial and civic uses. Focus on informal play, grass games and picnicking, and community gathering.
- (D) The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2100(A) (Size and Location).

**Table 23-4C-2100(A) Size and Location**

Size	0.25-3 acres
Width	25' (min.)
Impervious Cover	20% (max.)

Must front at least one street

**23-4C-2110 Square**



*General Note: Images on this page are illustrative, not regulatory.*

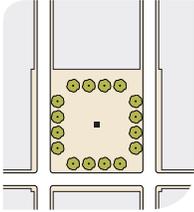
- (A) Description. **Public open space** available for civic purposes, commercial activity, informal recreation, and other informal uses.
- (B) General Character
  - (1) **Formal or hybrid design.**
  - (2) Spatially defined by buildings and tree-lined streets. Open shelters, paths, lawns, and trees formally arranged.
  - (3) **Sidewalks** and plantings at all edges.
  - (4) Abundant seating opportunities.
- (C) Typical Uses. **Informal recreation**; no organized sports; community gathering; occasional commercial and civic uses
- (D) The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2110(A) (Size and Location).

**Table 23-4C-2110(A) Size and Location**

Size	0.25–3 acres
Width	50' (min.)
Impervious Cover	40% (max.)
Perimeter Frontage on Public Right-of-way	75% (min.)

Located at important intersections

**23-4C-2120 Plaza**

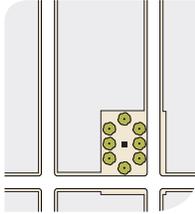


*General Note: Images on this page are illustrative, not regulatory.*

- (A) Description. **Public open space** that offers abundant opportunities for civic gathering. Adds to the vibrancy of streets and transit stops within the more urban zones.
- (B) General Character
  - (1) **Formal design.**
  - (2) Spatially defined by building frontages. A balance of hardscape and planting. Trees important for shade.
- (C) Typical Uses. Commercial and civic uses; formal and casual seating; tables and chairs for outdoor dining; retail and food kiosks
- (D) The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2120(A) (Size and Location).

Table 23-4C-2120(A) Size and Location	
Size	0.1–1 acre
Width	30' (min.)
Impervious Cover	60% (max.)
Perimeter Frontage on Public Right-of-way	30% (min.)
Located at important intersections, at vista termini, or at entrances to public/civic buildings.	

**23-4C-2130 Pocket Plaza/Paseo**

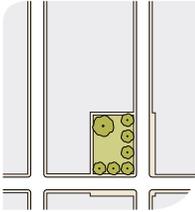


*General Note: Images on this page are illustrative, not regulatory.*

- (A) Description. Small-scale **public open space** that serves as an impromptu gathering place for civic, social, and commercial purposes. Designed as a well-defined area of refuge separate from the public sidewalk.
- (B) General Character
  - (1) **Formal design.**
  - (2) Spatially defined by the building configuration. Defined seating areas. Refuge from the public sidewalk.
- (C) Typical Uses. Civic and commercial uses; formal and casual seating
- (D) The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2130(A) (Size and Location).

Table 23-4C-2130(A) Size and Location	
Size	400 sf (min.)
Width	20' (min.)
Impervious Cover	60% (max.)
Perimeter Frontage on Public Right-of-way	25% (min.)
Located at important intersections, at vista termini, or at entrances to public/civic buildings	

**23-4C-2140 Pocket Park**

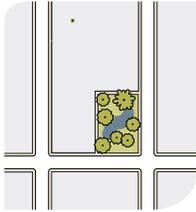


*General Note: Images on this page are illustrative, not regulatory.*

- (A) Description. These are small-scale public open spaces providing recreational opportunities with limited publicly accessible space. They are commonly located in areas with increased population densities. They are often located between buildings and developments, on single vacant lots, and on small irregular pieces of land.
- (B) General Character
  - (1) Formal or hybrid design.
  - (2) Range of character can be for recreational use or aesthetic enjoyment. Low maintenance is essential.
- (C) Typical Uses. Commercial and civic uses; formal and casual seating; tables and chairs for outdoor dining; retail and food kiosks
- (D) The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2140(A) (Size and Location).

Table 23-4C-2140(A) Size and Location	
Size	0.25–1.99 acres
Impervious Cover	50% (max.)
Within a few blocks or up to 1/4 mile of residences	

**23-4C-2150 Nature Space**



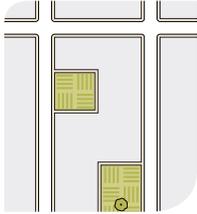
*General Note: Images on this page are illustrative, not regulatory.*

- (A) **Description.** A designated, managed location in an existing or modified outdoor environment where children of all ages and abilities and adults play and learn by engaging with and manipulating diverse natural elements, materials, organisms, and habitats, through sensory, fine motor, and gross motor experiences. Meeting the needs and pleasures of the adult and child, with much to explore, throughout all the seasons.
- (B) **General Character**
  - (1) Naturalistic design.
  - (2) Features may include: Seating (contemplative and/or learning areas), Nature Walking Trails, Water Infiltration features (bioswales, rainwater gardens, dry creeks), Habitats (pollinator meadows, vegetable gardens), nature play areas (boulders & logs, climbing stumps & play hills).
- (C) **Typical Uses.** Outdoor health, learning, exploration and free play.
- (D) **The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2150(A) (Size and Location).**

**Table 23-4C-2150(A) Size and Location**

Size	300 sf (min.)
Impervious Cover	20% (max.)
Residential districts, streets, urban trails, greenways, parks, childcare centers, schools	

**23-4C-2160 Community Garden**



*General Note: Images on this page are illustrative, not regulatory.*

- (A) Description. An open space providing garden plots to nearby residents for small-scale cultivation. Community gardens may be fenced to protect edible plants from wildlife and may include a small accessory structure for storage. Community gardens may be included within all other open space types.
- (B) General Character
  - (1) Formal or hybrid design.
  - (2) Plant beds (in-ground or raised). Accessory structure < 2,500 sf. Decorative fencing, when fencing present. Spatially defined by adjacent buildings and street trees. Irrigation. Access for supply deliveries.
- (C) Typical Uses. Food production, paths, access for delivery, and small scale non-commercial composting compliant with city, county, state, and federal authorizations.
- (D) The size, location, perimeter along a street, and impervious cover are described in Table 23-4C-2160(A) (Size and Location).

**Table 23-4C-2160(A) Size and Location**

Size	No Requirements
Impervious Cover	10% (max.)

# **Conservation Land, Park, and PUD Zones**

# Article 23-4D: Specific to Zones

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## Contents

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### Division 23-4D-1: Purpose

- 23-4D-1010 Purpose
  - 23-4D-1020 Overview
- 

### Division 23-4D-2: Residential House-Scale Zones

- 23-4D-2010 Purpose
  - 23-4D-2020 Applicability
  - 23-4D-2030 Allowed Land Uses and Permit Requirements
  - 23-4D-2040 Parking Requirements
  - 23-4D-2050 Rural Residential (RR) Zone
  - 23-4D-2060 Lake Austin (LA) Zone
  - 23-4D-2070 Residential 1A (R1A) Zone
  - 23-4D-2080 Residential 1B (R1B) Zone
  - 23-4D-2090 Residential 1C (R1C) Zone
  - 23-4D-2100 Residential 2A (R2A) Zone
  - 23-4D-2110 Residential 2B (R2B) Zone
  - 23-4D-2120 Residential 2C (R2C) Zone
  - 23-4D-2130 Residential 2D (R2D) Zone
  - 23-4D-2140 Residential 2E (R2E) Zone
  - 23-4D-2150 Residential 3A (R3A) Zone
  - 23-4D-2160 Residential 3B (R3B) Zone
  - 23-4D-2170 Residential 3C (R3C) Zone
  - 23-4D-2180 Residential 3D (R3D) Zone
  - 23-4D-2190 Residential 4A (R4A) Zone
  - 23-4D-2200 Residential 4B (R4B) Zone
  - 23-4D-2210 Residential 4C (R4C) Zone
- 

### Division 23-4D-3: Residential Multi-Unit Zones

- 23-4D-3010 Purpose
- 23-4D-3020 Applicability
- 23-4D-3030 Allowed Land Uses and Permit Requirements
- 23-4D-3040 Parking Requirements
- 23-4D-3050 Residential Multi-Unit 1A (RM1A) Zone
- 23-4D-3060 Residential Multi-Unit 1B (RM1B) Zone
- 23-4D-3070 Residential Multi-Unit 2A (RM2A) Zone
- 23-4D-3080 Residential Multi-Unit 2B (RM2B) Zone

23-4D-3090	Residential Multi-Unit 3A (RM3A) Zone
23-4D-3100	Residential Multi-Unit 4A (RM4A) Zone
23-4D-3110	Residential Multi-Unit 5A (RM5A) Zone
23-4D-3120	Residential Manufactured Home (MH) Zone

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#### Division 23-4D-4: Mixed-Use Zones

23-4D-4010	Purpose
23-4D-4020	Applicability
23-4D-4030	Allowed Uses and Permit Requirements
23-4D-4040	Parking Requirements
23-4D-4050	General to Mixed-Use Zones
23-4D-4060	Mixed-Use 1A (MU1A) Zone
23-4D-4070	Mixed-Use 1B (MU1B) Zone
23-4D-4080	Mixed-Use 1C (MU1C) Zone
23-4D-4090	Mixed-Use 1D (MU1D) Zone
23-4D-4100	Mixed-Use 2A (MU2A) Zone
23-4D-4110	Mixed-Use 2B (MU2B) Zone
23-4D-4120	Mixed-Use 3A (MU3A) Zone
23-4D-4130	Mixed-Use 3B (MU3B) Zone
23-4D-4140	Mixed-Use 4A (MU4A) Zone
23-4D-4150	Mixed-Use 4B (MU4B) Zone
23-4D-4160	Mixed-Use 5A (MU5A) Zone

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#### Division 23-4D-5: Main Street Zones

23-4D-5010	Purpose
23-4D-5020	Applicability
23-4D-5030	Allowed Uses and Permit Requirements
23-4D-5040	Parking Requirements
23-4D-5050	General to Main Street Zones
23-4D-5060	Main Street 1A (MS1A) Zone
23-4D-5070	Main Street 1B (MS1B) Zone
23-4D-5080	Main Street 2A (MS2A) Zone
23-4D-5090	Main Street 2B (MS2B) Zone
23-4D-5100	Main Street 2C (MS2C) Zone
23-4D-5110	Main Street 3A (MS3A) Zone
23-4D-5120	Main Street 3B (MS3B) Zone

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**Division 23-4D-6: Regional Center Zones**

- 23-4D-6010 Purpose
- 23-4D-6020 Applicability
- 23-4D-6030 Allowed Uses and Permit Requirements
- 23-4D-6040 Parking Requirements
- 23-4D-6050 General to Regional Center Zones
- 23-4D-6060 Commercial Center (CC) Zone
- 23-4D-6070 Urban Center (UC) Zone
- 23-4D-6080 Downtown Core (DC) Zone

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**Division 23-4D-7: Commercial and Industrial Zones**

- 23-4D-7010 Purpose
- 23-4D-7020 Applicability
- 23-4D-7030 Allowed Land Uses and Permit Requirements
- 23-4D-7040 Parking Requirements
- 23-4D-7050 Commercial Recreation (CR) Zone
- 23-4D-7060 Commercial Warehouse (CW) Zone
- 23-4D-7070 Industrial Flex (IF) Zone
- 23-4D-7080 Industrial General (IG) Zone
- 23-4D-7090 Industrial Heavy (IH) Zone
- 23-4D-7100 Research & Development (R&D) Zone

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**Division 23-4D-8: Other Zones**

- 23-4D-8010 Purpose
- 23-4D-8020 Applicability
- 23-4D-8030 Allowed Uses and Permit Requirements
- 23-4D-8040 Parking Requirements
- 23-4D-8050 Agriculture (AR) Zone
- 23-4D-8060 Aviation Services (AV) Zone
- 23-4D-8070 Conservation Lands (CL) Zone
- 23-4D-8080 Former Title 25 (F25) Zone
- 23-4D-8090 Public (P) Zone
- 23-4D-8100 Park (PR) Zone
- 23-4D-8110 Planned Unit Development (PUD) Zone

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**Division 23-4D-9: Overlay Zones**

- 23-4D-9010 Purpose
- 23-4D-9020 Applicability
- 23-4D-9030 Airport Overlay Zone
- 23-4D-9040 Barton Springs Overlay Zone
- 23-4D-9050 Capitol Dominance Overlay Zone
- 23-4D-9060 Capitol View Corridor Overlay Zone
- 23-4D-9070 Downtown Civic Spaces Overlay Zone
- 23-4D-9080 Downtown Plan Overlay Zone
- 23-4D-9090 Hill Country Roadway Overlay Zone
- 23-4D-9100 Historic Landmark and Historic District Overlay Zones
- 23-4D-9110 Lake Austin Overlay Zone
- 23-4D-9120 South Central Waterfront Overlay Zone
- 23-4D-9130 University Neighborhood Overlay Zone
- 23-4D-9140 Waterfront Overlay Zone
- 23-4D-9150 Overlay Zone Boundaries Described

## 23-4D-8070 Conservation Lands (CL) Zone

- (A) **Purpose.** Conservation lands (CL) zone conserves land in a form that is generally free from development.
- (B) **Overview.** A conservation land may be used for natural recreation but may not otherwise be developed. Its character may be summarized as:
  - (1) No development allowed
  - (2) Not eligible for affordable housing bonus program; and
  - (3) The compatibility effects in this zone **do not require** additional setbacks **or** height setbacks.
- (C) **Additional Specific Use Standards**
  - (1) For Recreation: Outdoor, Natural uses
    - (a) For submittals on sites not greater than 1 acre and not requiring a site plan, Recreation: Outdoor, Natural uses are permitted.
    - (b) For submittals requiring a site plan, Recreation: Outdoor, Natural uses require a minor use permit (MUP).
  - (2) For lands subject to deed and covenant restrictions, conservation easements, or plans for land management that restrict uses only the following development is allowed:
    - (a) parking for public access,
    - (b) trails, structures needed for nature education programs or observation of nature; and
    - (c) restrooms.
- (D) **Parking.** The off-street parking requirements may be established in a joint agreement.

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## 23-4D-8100 Park (PR) Zone

- (A) **Purpose.** Park (PR) zone is intended to preserve areas for outdoor, indoor, and natural recreation land uses.
- (B) **Overview.** This zone allows parks, playgrounds, recreation facilities, or open spaces. Its character may be summarized as:
  - (1) Form Controls Determined by MUP/CUP
  - (2) Not eligible for affordable housing bonus program; and
  - (3) The compatibility effects in this zone **do not require** additional setbacks or height stepbacks.
- (C) **Requirements**
  - (1) If a use is allowed by right, the development requirements of the least restrictive adjacent zone apply.
  - (2) If a use is allowed with a minor use permit, the development requirements in an adopted master plan or, if a master plan does not exist, the least restrictive adjacent zone apply.
  - (3) If a use is allowed with a conditional use permit, the development requirements included within the site plan apply.
  - (4) A lot zoned park is not required to comply with the following requirements:
    - (a) Section 23-4C-1020 (Internal Circulation);
    - (b) Division 23-4C-2 (Civic Open Space);
    - (c) Division 23-4E-4 (Landscape);
    - (d) Division 23-4E-8 (Building Standards);
    - (e) Section 23-9B-1040 (Proportionality of Required Infrastructure); and
    - (f) Division 23-9C-1 (Roadways Generally).



PR

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## 23-4D-8110 Planned Unit Development (PUD) Zone

### (A) Purpose and Overview

- (1) The planned unit development (PUD) zone is intended to preserve the natural environment, encourage high quality development and innovative design, and ensure adequate public facilities and services.
- (2) The Council intends a PUD district zone to produce a development that achieves these goals to a greater degree than and that is superior to development under base zoning and subdivision regulations (Subsections F and G).
- (3) The PUD Zone is intended to respond to unique and extraordinary circumstances, where more flexible zoning than what is achievable through a base Zone is necessary, this includes:
  - (a) A development site with special physical characteristics, such as properties with significant topographical or environmental barriers to standard development or construction practices.
  - (b) A development site subject to an existing PUD and rezoning to a new PUD District will bring the site closer to conformance with current zoning regulations and adopted plans.
  - (c) Where the proposed scale or timing of a development project demands a more customized zoning approach to achieve a successful phased development.
- (4) This zone is designated for large or complex single or multi-use development that is planned as a single contiguous development under unified control.
- (5) This zone provides greater design flexibility by authorizing modifications of site development requirements.
- (6) The Council retains the legislative authority to determine whether PUD zoning is appropriate regardless of whether the proposed development meets the standards prescribed by this section.
- (7) In return for the flexibility in site design with respect to the arrangement of buildings, heights, setbacks, densities, open space and circulation elements, development under a PUD should provide significant public benefit not achievable through application of a base Zone, including significant affordable housing, greater diversification of land uses, innovation in development, more efficient use of land and energy, exemplary pedestrian amenities, and development patterns compatible in character and design with nearby areas and with the goals and objectives of the Comprehensive Plan.
- (8) A PUD is not intended as a vehicle to solely enhance a proposed development's economic feasibility.

### (B) Applicability in the Extraterritorial Jurisdiction.

- (1) A PUD zone may be designated in the City's extraterritorial jurisdiction in accordance with state law.



PUD

## Planned Unit Development (PUD) Zone

- (2) Unless otherwise agreed by the City and the landowners, a planned unit development shall comply with the requirements applicable to a PUD zone in the City's zoning jurisdiction.
  - (3) The uses allowed in a PUD zone located in the extraterritorial jurisdiction are the uses described in the planned unit development agreement.
- (C) **Baseline for Determining Development Bonuses**
- (1) Unless the council establishes a different baseline, the baseline for determining development bonuses under Subsection (D) is determined by:
    - (a) the regulations of the base zone and overlay zone; and
    - (b) any other applicable site development regulations.
  - (2) The director may recommend an alternate baseline for the property. The council may approve the director's recommendation or other baseline it determines is appropriate.
  - (3) Any bonus granted under an overlay zone may only be used to determine the baseline if the project complies with the requirements for the bonus and the bonus may be achieved without violating any other applicable site development requirements.
  - (4) In the project assessment report, the director shall provide an estimate of the property's baseline entitlements in the project assessment report. If an alternate baseline is recommended by the director, the project assessment report should also include any assumptions used to make the estimate baseline entitlements.
- (D) **Development Bonus.** Development in a PUD may exceed the baseline established under Subsection (C) for maximum height, maximum floor area ratio, and maximum building coverage if:
- (1) The application for PUD zoning includes a report approved by the housing director establishing the prevailing level of affordability of housing in the vicinity of the PUD, expressed as a percentage of median family income in the Austin metropolitan statistical area; and
  - (2) The applicant complies with the requirements of Division 23-3E-1 (Citywide Affordable Housing Bonus Program).
- (E) **Allowed Land Uses and Development Standards**
- (1) The allowed uses, conditional uses, and site development standards for a PUD Zone are established by the ordinance zoning the subject property as a PUD Zone, the accompanying land use plan, and this section. The council may require development phasing or the construction of off-site infrastructure.
  - (2) A PUD may not exceed the baseline regulations for maximum height, maximum floor area ratio, and maximum building coverage established under Subsection (C) except as provided in Section (D).
  - (3) Unless modified by the ordinance zoning the property as a PUD zone, the property shall comply with all other applicable requirements in this Title.
- (F) **Tier 1 Criteria for Approval of a PUD Zone.** An application for a PUD zone designation shall comply with the requirements in this subsection.
- (1) The proposed PUD zone is consistent with the Comprehensive Plan and meets the objectives of the City Code.

- (2) Provide development standards that achieve equal or greater consistency with the purpose of the PUD zone described in Subsection (A) than development under the regulations in the Land Development Code.
  - (3) Provide a total amount of open space that equals or exceeds 10 percent of the residential tracts, 15 percent of the industrial tracts, and 20 percent of the nonresidential tracts within the PUD, except that:
    - (a) a detention or filtration area is excluded from the calculation unless it is designed and maintained as an amenity; and
    - (b) the required percentage of open space may be reduced for urban property with characteristics that make open space infeasible if other community benefits are provided.
  - (4) Provide a two-star Austin Energy Green Building Rating.
  - (5) Be consistent with applicable neighborhood plans, historic district and landmark standards, and compatible with adjacent property and land uses.
  - (6) Provide for environmental preservation and protection relating to air quality, water quality, trees, buffer zones and greenbelt areas, critical environmental features, soils, waterways, topography, and the natural and traditional character of the land.
  - (7) Provide for public facilities and services that are adequate to support the proposed development including school, fire protection, emergency service, and police facilities.
  - (8) Provide for appropriate transportation and mass transit connections to areas adjacent to the PUD Zone and mitigation of adverse cumulative transportation effects with sidewalks, trails, and roadways.
  - (9) Prohibit gated roadways.
  - (10) Protect, enhance and preserve areas that include structures or sites that are of architectural, historical, archaeological, or cultural significance.
  - (11) Include at least 10 acres of land, unless the property is characterized by special circumstances, including unique topographic constraints.
  - (12) In addition, an applicant may propose additional benefits in support of the PUD Zone application including, but not limited to, reductions in impervious cover, increased volumetric flood detention and drainage upgrades including rainwater harvesting, restoration of riparian vegetation, preservation of all heritage trees, compliance with the City's Great Streets Program or a successor program, installation of public art, or provides for or participates in programs to achieve affordable housing.
  - (13) A PUD containing a retail, commercial, or mixed use development must contain pedestrian-oriented uses as defined in Division 23-4E-7 (Additional General Standards).
- (G) Tier 2 Criteria for Superiority. This section contains criteria for determining the extent to which development proposed for a PUD zone would be superior to that which would occur under conventional zoning and subdivision regulations as required under Subsection (A). A proposed PUD need not address all criteria in this subsection to achieve superiority, and the council may consider any other criteria the council deems appropriate.
- (1) Open Space. Provides open space at least 10 percent above the requirements of Subsection (F)(3).

- (2) Environment/Drainage
  - (a) Complies with current code instead of asserting an entitlement to follow older code provisions by application of law or agreement.
  - (b) Provides water quality controls superior to those otherwise required by this Title.
  - (c) Uses green water quality controls as described in the Environmental Criteria Manual to treat at least 50 percent of the water quality volume required by this Title.
  - (d) Provides water quality treatment for currently untreated, developed off-site areas of at least 10 acres in size.
  - (e) Reduces impervious cover by five percent below the maximum otherwise allowed by this Title or includes off-site measures that lower overall impervious cover within the same watershed by five percent below that allowed by this Title.
  - (f) Provides minimum 50-foot setback for at least 50 percent of all unclassified waterways with a drainage area of 32 acres.
  - (g) Provides volumetric flood detention as described in the Drainage Criteria Manual.
  - (h) Provides drainage upgrades to off-site drainage infrastructure that does not meet current criteria in the Drainage or Environmental Criteria Manuals, such as storm drains and culverts that provide a public benefit.
  - (i) Proposes no modifications to the existing 100-year floodplain.
  - (j) Uses natural channel design techniques as described in the Drainage Criteria Manual.
  - (k) Restores riparian vegetation in existing, degraded Critical Water Quality Zone areas.
  - (l) Removes existing impervious cover from the Critical Water Quality Zone.
  - (m) Preserves all heritage trees; preserves 75 percent of the caliper inches associated with native protected size trees; and preserves 75 percent of all of the native caliper inches.
  - (n) Tree plantings use Central Texas seed stock native and with adequate soil volume.
  - (o) Provides at least a 50 percent increase in the minimum waterway or critical environmental feature setbacks required by this Title.
  - (p) Clusters impervious cover and disturbed areas in a manner that preserves the most environmentally sensitive areas of the site that are not otherwise protected.
  - (q) Provides porous pavement for at least 20 percent or more of all paved areas for non-pedestrian in non-aquifer recharge areas.
  - (r) Provides porous pavement for at least 50 percent or more of all paved areas limited to pedestrian use.
  - (s) Provides rainwater harvesting for landscape irrigation to serve not less than 50 percent of the landscaped areas.
  - (t) Directs stormwater runoff from impervious surfaces to a landscaped area at least equal to the total required landscape area.

- (u) Employs other creative or innovative measures to provide environmental protection.
- (3) Austin Energy Green Building. Provides an Austin Energy Green Building Rating of three stars or above.
- (4) Art. Provides art approved by the Art in Public Places Program in open spaces, either by providing the art directly or by making a contribution to the City's Art in Public Places Program or a successor program.
- (5) Great Streets. Complies with City's Great Streets Program, or a successor program.
- (6) Community Amenities
  - (a) Provides community or public amenities, which may include spaces for community meetings, community gardens or urban farms, day care facilities, non-profit organizations, or other uses that fulfill an identified community need.
  - (b) Provides publicly accessible multi-use trail and greenway along creek or waterway.
- (7) Transportation. Provides bicycle facilities that connect to existing or planned bicycle routes or provides other multi-modal transportation features not required by code.
- (8) Building Design. Exceeds the minimum points required by Division 23-4E-8 (Building Design Standards).
- (9) Parking Structure Frontage. In a commercial or mixed-use development, at least 75 percent of the building frontage of all parking structures is designed for pedestrian-oriented uses as defined in Section 23-4D-9130 (Waterfront Overlay Zone) in ground floor spaces.
- (10) Affordable Housing. Provides for affordable housing or participation in programs to achieve affordable housing described in Subsection (D)(2) and Article 23-3E (Affordable Housing).
- (11) Historic Preservation. Preserves historic structures, landmarks, or other features to a degree exceeding applicable legal requirements.
- (12) Accessibility. Provides for accessibility for persons with disabilities to a degree exceeding applicable legal requirements.
- (13) Local Small Business. Provides space at affordable rates to one or more independent retail or restaurant small businesses whose principal place of business is within the Austin metropolitan statistical area.
- (H) **Additional Standards.** In addition to the requirements contained in this subsection, a PUD containing a retail, commercial, or mixed use development must:
  - (1) comply with the sidewalk requirements in Section 23-9E-5050 (Sidewalk Requirements) and building design requirements of Division 23-4E-8 (Building Design Standards);
  - (2) pay the tenant relocation fee established under Section 23-3E-3050 (Tenant Relocation Assistance - Developer Funded), if approval of the PUD would allow multi-family redevelopment that may result in tenant displacement; and
  - (3) contain pedestrian-oriented uses, as defined in Division 23-13A-1 (Terms), on the first floor of a multi-story commercial or mixed use building.

(I) **General Procedures**

(1) **Compliance Required.** An applicant who seeks to designate property as a PUD Zone must demonstrate that the proposed development complies with this section.

(2) **Pre-Application Filing Procedures**

(a) Development Assessment Report.

(i) Before a person may submit an application for a PUD zone, the applicant must request a development assessment that complies with Section 23-2B-2050 (Development Assessment).

(ii) Not later than the 11th day after the assessment is issued, the director shall mail notice of the assessment to the Neighborhood Plan Contact Team and those entitled to notice under Section 23-2C-5020 (Notice of Administrative Decision).

(b) Council Hearing.

(i) The director must present the development assessment at a council meeting and make recommendations regarding the requirements in Subsections (F) and (G) and any other applicable requirements or criteria.

(ii) Not later than the 11th day before the date of the council meeting, the director shall mail notice of the meeting to those entitled to receive notice of the development assessment.

(c) Council Response. The council or individual council members may supplement or respond to the recommendation of the planning director with comments identifying issues that should or must be addressed during subsequent review and consideration of the application. A comment does not obligate council members to vote for or against approval of the proposed PUD Zone.

(d) Fee Credit. The planning director shall credit the fee for the development assessment toward the zoning application fee if the zoning application is filed not later than one year after the applicant receives the development assessment report.

(e) After the council provides comments on the development assessment, the applicant may submit an application to zone or re-zone the property to a PUD zone that complies with Article 23-4B (Zoning Administration and Procedures).

(3) **Application and Approval Procedures**

(a) An application to zone or re-zone a property to a PUD zone shall be filed and processed under Article 23-2B (Application Review and Fees). The application must include:

(i) a land use plan;

(ii) the required fee;

(iii) the proposed site development regulations;

(iv) the baseline for determining development bonuses;

- (v) a description of any bonuses requested and the manner in which the bonus requirements are to be satisfied;
  - (vi) requested waivers from or modifications to the requirements of this Title; and
  - (vii) any other information required by the director.
- (b) An application to re-zone to a PUD Zone shall be reviewed under Division 23-4B-3 (Zoning Map Designations and Amendments).
- (c) Review Authority
- (i) Land Use Commission hearing and recommendation. The Land Use Commission shall hold a noticed public hearing to consider the application. The Commission shall recommend to the council either approval, conditional approval, or disapproval of the application.
  - (ii) Council hearing and decision. The council shall hold a noticed public hearing to consider the application and the Commission's recommendation. The council shall by ordinance approve subject to conditions or deny the application. The director shall notify the applicant in writing of the council's decision.
  - (iii) The proposed development must comply with the standards of this Title, except that the council may waive or modify a standard if the PUD ordinance identifies the waiver or modification; and the council finds that the resulting development would achieve greater consistency with the purpose enumerated in Subsection (B) than development that would occur without the waiver or modification; the adverse effects of the waiver or modification are offset by other enforceable standards; and the objective of the waived or modified standard is substantially achieved.
- (d) Application Review and Approval
- (i) Concurrent consideration of development applications. A preliminary plan or final plat may be processed concurrently with an application requesting a PUD Zone classification for a property.
  - (ii) Approval. A preliminary subdivision plan, final plat, site plan or building required to develop property subject to a PUD zone must comply with the land use plan associated with the PUD zone.
  - (iii) Director's report. The planning director's report on a development application considered by the Land Use Commission or council must include a determination of whether the application complies with the standards of the land use plan.
- (4) **Land Use Plan Expiration and Amendment**
- (a) Expiration. A land use plan does not expire unless the property is rezoned to a zone other than PUD.

## Planned Unit Development (PUD) Zone

- (b) Substantial Amendment. A substantial amendment to a land use plan is a rezoning of the affected portion of the PUD Zone and requires council approval. The following are substantial amendments:
- (i) adding a land use that is more intense than the existing allowed uses, which includes an increase in residential density or the addition of a multi-family use along the periphery of the development;
  - (ii) amending a site development standard;
  - (iii) increasing the intensity of a land use adjacent to a platted single-family residential tract;
  - (iv) amending a condition of approval of the PUD Zone;
  - (v) increasing land use intensity in a phase of development of the PUD without decreasing land use intensity an equivalent amount in the phase of development;
  - (vi) shifting development intensity in a manner that results in an "E" or "F" level of service on a roadway segment or intersection included in the traffic impact analysis for the PUD Zone; and
  - (vii) amending a phasing schedule to establish a non-residential land use before establishing the residential development supported by the non-residential use.
- (c) Approval by Director. The planning director may approve an amendment to a land use plan that is not a substantial amendment described in Subsection (1)(4)(b).
- (i) An applicant must submit a proposed amendment to the planning director with an application for approval of a site plan.
  - (ii) The planning director's decision on an amendment may be appealed to the Land Use Commission, and the Land Use Commission's decision may be appealed to the council under Article 23-21 (Appeals).
- (d) Rezoning If Development Applications Expire or Are Not Approved. The director must request council initiate the rezoning of property in a PUD zone if:
- (i) a preliminary plan or site plan for a portion of the property is not approved within three years after the effective date of the ordinance approving the PUD zone for the property; or
  - (ii) an approved preliminary plan or site plan expires.

# Parkland Dedication

**KEY**

Green text = new or modified language for Draft 2.

Purple text = new or modified language for Draft 3.

# Article 23-3B: Parkland Dedication

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## Contents

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### Division 23-3B-1: General Provisions

- 23-3B-1010 Purpose and Applicability
  - 23-3B-1020 Review Authority
- 

### Division 23-3B-2: Dedication

- 23-3B-2010 Dedication of Parkland
  - 23-3B-2020 Standards for Dedication of Parkland
  - 23-3B-2030 Private Parkland
  - 23-3B-2040 Dedication of Land or Payment In-Lieu at Building Permit
- 

### Division 23-3B-3: Fees

- 23-3B-3010 Fee In-Lieu of Parkland Dedication
- 23-3B-3020 Parkland Development Fee
- 23-3B-3030 Fee Payment and Expenditure

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# Division 23-3B-1: General Provisions

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## Contents

23-3B-1010	Purpose and Applicability . . . . .	1
23-3B-1020	Review Authority . . . . .	2

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## 23-3B-1010 Purpose and Applicability

### (A) Purpose.

- (1) The City of Austin has determined that recreational areas in the form of public parks and open spaces are necessary for the well-being of the City's residents.
- (2) The City has further determined that the approval of new residential development creates a need for additional parkland and park amenities to serve new residents and maintain existing levels of service.
- (3) To address the impacts of new development on the City's park system, this article:
  - (a) Requires residential development to dedicate parkland or pay a fee in-lieu of land dedication as a condition to development approval; and
  - (b) Establishes a fair method for determining the amount that new development may reasonably be required to contribute, based on its direct impacts to the City's park system and the need for high quality parkland and open space to serve the City's residents.

### (B) Applicability

- (1) The requirements of this article apply to:
  - (a) a residential subdivision in the planning jurisdiction;
  - (b) a site plan in the zoning jurisdiction that includes residential units or a hotel-motel use; and
  - (c) a residential building permit, as provided under Section 23-3B-1020 (Dedication of Land or Payment In-Lieu at Building Permit).
- (2) The following are exempt from the requirements of this article:
  - (a) a subdivision or site plan for which parkland was previously dedicated or payment made under this Title, except for the dwelling units or lots that exceed the number for which dedication or payment was made;
  - (b) development within the City's extraterritorial jurisdiction that is within Travis County and governed by Title 30 (Austin/Travis County Subdivision Regulations); and
  - (c) affordable dwelling units as described in Article 23-3E (Affordable Housing).

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**23-3B-1020 Review Authority**

- (A) Authority and responsibility for implementing this chapter is delegated to the Parks Director, which is referred to in this chapter as “the director.” However, the city manager may from time to time delegate particular functions under this chapter to one or more other City departments, which shall control over the general delegation in this subsection.
- (B) In exercising authority under this chapter, the director may consult with other City departments regarding issues within that department’s area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (City Departments and Directors).
- (C) The director is authorized to take actions that are necessary to implement this article and, at a minimum, shall adopt the following by administrative rule under Chapter 1-2 (Administrative Rules) after obtaining a recommendation from the Parks Board:
  - (1) A Deficient Park Area Map illustrating shortages in parkland; and
  - (2) Parkland Dedication Operating Procedures establishing:
    - (a) Boundaries for service areas required by Section 23-3B-3030 (Fee Payment and Expenditure) for use of a fee in-lieu of parkland dedication and parkland development fee;
    - (b) General standards for dedicated parkland under Section 23-3B-2020 (Standards for Dedicated Parkland);
    - (c) Methodology for determining:
      - (i) Parkland cost factor and park level-of-service under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication); and
      - (ii) Park development cost factor and facilities level-of-service under Section 23-3B-3020 (Parkland Development Fee); and other provisions deemed necessary for implementing this article.

# Division 23-3B-2: Dedication

**Contents**

23-3B-2010 Dedication of Parkland . . . . . 1

23-3B-2020 Standards for Dedication of Parkland . . . . . 3

23-3B-2030 Private Parkland. . . . . 4

23-3B-2040 Dedication of Land or Payment In-Lieu at Building Permit . . . . . 4

**23-3B-2010 Dedication of Parkland**

- (A) **Dedication Required.** An applicant for subdivision or site plan approval must provide for the parkland needs of the residents by the dedication of suitable land for park and recreational purposes under this article or by payment of a fee in-lieu of dedication under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication).
- (B) **Subdivision Dedication.** For dedication made at subdivision, the area to be dedicated must be shown on the preliminary plan and final plat as “Parkland Dedicated to the City of Austin.” The subdivider shall dedicate to the City all parkland required by this article when a plat is approved, except that the director may defer dedication of parkland to site plan approval if development within the subdivision will require a site plan under Chapter 23-6 (Site Plan).
- (C) **Site Plan Dedication.**
  - (1) For dedication made at site plan the area to be dedicated must be shown on the site plan as “Parkland Dedicated to the City of Austin” and in a deed to the City. The applicant shall dedicate the parkland required by this article to the City by deed before the site plan is released, except that dedication may be deferred until issuance of a certificate of occupancy if construction of amenities is authorized under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) or Section 23-3B-3020 (Parkland Development Fee).
  - (2) In negotiating a deed under this section, the director may require that a reasonable portion of the total impervious cover permitted on the site be allocated to the dedicated parkland to allow for construction of parkland amenities without unduly impacting development of the proposed site plan.
- (D) **Building Permits.** For a building permit that is subject to Section 23-3B-2040 (Dedication of Land or Payment In-Lieu at Building Permit), the area to be dedicated must be shown in a deed to the to the City. The applicant shall dedicate to the City all parkland required by this article before a building permit is issued.
- (E) **Criteria for Land Dedication.**
  - (1) **Level of Service.** Except as provided under Subsection (H), the amount of parkland required to be dedicated to the City is 9.4 acres for every 1,000 residents, as determined by the following formula:  

$$(9.4 \times \text{Number of Units} \times \text{Residents per Unit}) / 1,000 = \text{Acres of Parkland}$$
  - (2) **Densities**
    - (a) In calculating the amount of parkland to be dedicated under this section, the number of residents in each dwelling unit is based on the following densities:

Table 23-3B-2010(A): Calculation of Parkland	
Density Classification	Residents in Each Dwelling Unit
Low Density: Not more than 6 units per acre	2.8
Medium Density: More than 6 and not more than 12 units per acre	2.2
High Density: More than 12 units per acre	1.7
Hotel-Motel Density: Total number of rooms	$1.7 \times \text{Annual Occupancy Rate}$

- (b) If the density of a development is not known:
- (i) The density is assumed to be the highest permitted in the Zone, or if the property is not zoned, 24 dwelling units per acre; or
  - (ii) For a residential Subdivision within the extraterritorial jurisdiction, the applicant may reduce the assumed density by agreeing, in a manner that is enforceable by the City and approved by the City Attorney, that any subsequent increases in density may require additional dedication of parkland under this Section or payment of a fee in- lieu of dedication under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication).
- (F) **Dedication Costs.** An applicant must pay all costs of transferring the parkland to the City, including the costs of:
- (1) An environmental site assessment without any further recommendations for clean-up, certified to the City not earlier than the 120th day before the closing date;
  - (2) A Category 1(a) land title survey, certified to the City and the title company not earlier than the 120th calendar day before the closing date;
  - (3) A title commitment with copies of all Schedule B and C documents, and an owner's Title policy;
  - (4) A fee simple deed;
  - (5) Taxes prorated to the closing date;
  - (6) Recording fees; and
  - (7) Charges or fees collected by the title company.
- (G) **PUD Parkland Requirements.** Development within a Planned Unit Development (PUD) Zone may, if required by the ordinance adopting the PUD, be subject to additional parkland requirements and may be entitled to count dedicated parkland towards meeting open space requirements under Section 23-4D-8130 (Planned Unit Development Zone).
- (H) **15 Percent Urban Core Cap.** The amount of parkland required to be dedicated within the Parkland Dedication Urban Core may not exceed 15 percent of gross site area for the development required to provide the dedication except upon consent of the applicant or as authorized under this subsection.
- (1) The **director** may request that the Land Use Commission approve dedication in excess of the 15 percent cap, up to the amount required under Subsection (E), if doing so is necessary to address a critical shortage of parkland for an area identified in the

Deficient Parkland Area Map or provide connectivity with existing or planned parks or recreational amenities.

- (2) Before the Land Use Commission considers a request under this subsection for approval, the director shall present the request to the Parks Board for a recommendation.
- (3) In considering a request from the director under this subsection, the Land Use Commission may:
  - (a) Deny the director's request and limit the required dedication to no more than 15 percent of gross site area; or
  - (b) Require additional parkland dedication beyond the 15 percent cap, up to the lesser of either the amount required under Subsection (E) or the minimum amount the Land Use Commission finds to be necessary based on the criteria in Subsection (J)(1) and the parkland dedication operating procedures.
- (4) If an applicant dedicates less than the amount of land required for dedication under Subsection (E) due to the 15 percent cap imposed by this subsection, the director shall require payment of a fee in-lieu of dedication under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) for the remaining undedicated land.
- (5) A request by the director under this subsection may be consolidated with an appeal by the applicant under Subsection 23-3B-3010 (F) (Payment of Fee In-Lieu Dedication).

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## 23-3B-2020 Standards for Dedication of Parkland

- (A) In addition to the requirements of this article, land to be dedicated as parkland must meet the requirements of this subsection.
  - (1) Parkland must be easily accessible to the public and open to public view so as to benefit area residents, enhance the visual character of the City, protect public safety, and minimize conflicts with adjacent land uses.
  - (2) On-street and off-street connections between residential neighborhoods shall be provided, wherever possible, to provide reasonable access to parks and open space areas.
  - (3) Parkland must comply with the standards in the Comprehensive Plan, the Park and Recreation Long-Range Plan, the Environmental Criteria Manual, and the Parkland Dedication Operating Procedures.
- (B) The director shall determine whether land offered for dedication complies with the standards for dedication under Subsection (A) and may require a subdivision or site plan applicant to provide information deemed necessary to determine compliance.
- (C) Unless otherwise required under the Parkland Dedication Operating Procedures, 50 percent of acreage in the 100 year floodplain that is dedicated as parkland may be credited toward fulfilling the requirements of this article if any adjoining land within the 25 year floodplain is also dedicated as parkland. The land within the 25-year floodplain may not be credited toward fulfilling the requirements of this article.
- (D) Land identified on the Deficient Parkland Area Map that does not otherwise comply with the standards for parkland dedication may be accepted as dedicated parkland if the director determines that the land will provide recreational or educational opportunities

for the surrounding community. Fifty percent of the acreage of land accepted for dedication under this subsection may be credited toward fulfilling parkland dedication requirements.

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### 23-3B-2030 Private Parkland

- (A) The director may allow up to a 100 percent credit toward fulfilling the requirements of:
  - (1) Section 23-3B-2010 (Dedication of Parkland) for privately owned and maintained parkland or recreational easements that are available for use by the public and meet the standards of the Parkland Dedication Operating Procedures; and
  - (2) Section 23-3B-3020 (Parkland Development Fee) for recreational facilities that are located on privately owned and maintained parkland and available for use by the public.
- (B) For a subdivision or site plan located outside the City limits, the director may allow up to a 100 percent credit toward fulfilling the requirements of this article for private parkland if:
  - (1) The director determines that the private parkland meets City parkland standards; and
  - (2) The land owner agrees to dedicate the private parkland to the City if the City annexes the land for all purposes.
- (C) If private parkland will include construction of recreational amenities, the applicant must post fiscal surety in an amount equal to the fee in-lieu provided for under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) and the development fee required under Section 23-3B-3020 (Parkland Development Fee). The fiscal surety must be posted before final plat approval or before site plan release, for any portion of the subdivision that will require a site plan.
- (D) Yards, setback areas, and private personal open spaces required by this Title may not be counted as private parkland under this section, except for a required setback or yard that includes a public trail.
- (E) If private parkland is allowed, a recreation easement must be recorded prior to Site Plan or Subdivision approval.

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### 23-3B-2040 Dedication of Land or Payment In-Lieu at Building Permit

- (A) Dedication of parkland or payment in lieu of dedication, as determined by the director under this Article, is required as a condition to obtaining a building permit for residential development located within a Subdivision that:
  - (1) At the time of approval, was deemed to be exempt from a requirement to dedicate parkland or pay a fee in-lieu of dedication based on the assumption that development within the subdivision would be limited to non-residential uses; and
  - (2) Has not subsequently developed with a use for which parkland was dedicated or a fee in-lieu of dedication was paid.
- (B) The amount of a fee in-lieu of parkland dedication under this section shall be calculated in accordance with Section 23-3B-2010 (Dedication of Parkland) and Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication).

# Division 23-3B-3: Fees

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**Contents**

23-3B-3010 Fee In-Lieu of Parkland Dedication ..... 1  
23-3B-3020 Parkland Development Fee ..... 2  
23-3B-3030 Fee Payment and Expenditure ..... 4

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## 23-3B-3010 Fee In-Lieu of Parkland Dedication

- (A) **Fee In-Lieu Authorized.** The **director** may require or allow a **subdivision** or **site plan applicant** to deposit with the City a fee in-lieu of parkland dedication under Section 23-3B-2010 (Dedication of Parkland) if:
  - (1) The **director** determines that payment of a fee in-lieu of dedication is justified under the criteria in Subsection (B); and
  - (2) The following additional requirements are met:
    - (a) Less than six acres is required to be dedicated under Section 23-3B-2010 (Dedication of Parkland); or
    - (b) The land available for dedication does not comply with the standards for dedication under Section 23-3B-2020 (Standards for Dedicated Parkland).
  
- (B) **Review Criteria.** In determining whether to require dedication of land under Section 23-3B-2010 (Dedication of Parkland) or allow payment of a fee in-lieu of dedication under this **section**, the **director** shall consider whether the **subdivision** or **site plan**:
  - (1) Is located within the Deficient Park Area Map;
  - (2) Is adjacent to existing parkland;
  - (3) Has sufficient acreage to meet the standards for dedicated parkland under the Parkland Dedication Operating Procedures;
  - (4) Is needed to address a critical need for parkland or to remedy a deficiency identified by the Deficient Park Area Map; or
  - (5) Would provide increased connectivity with existing or planned parks or recreational amenities.
  
- (C) **Review Procedure.** The **director** shall, at the request of an applicant, determine whether payment of a fee in-lieu of parkland dedication will be allowed prior to formal submittal of a **site plan** or **subdivision** application. The **director** may establish requirements for obtaining the determination in the Parkland Dedication Operating Procedures and may require an applicant to provide information relevant to the criteria in Subsection (B). A determination issued under this Subsection is valid for a period of one-year from the date of issuance.
  
- (D) **Fee Amount.** The amount of the fee in-lieu of parkland dedication is established in the annual fee schedule based on a recommendation by the **director** in accordance with this **subsection**.

Table 23-3B-3010(A): In Lieu Fee Calculation	
Density Classification	Residents in Each Dwelling Unit
Low Density: Not more than 6 units per acre	2.8 x Land Cost per Person
Medium Density: More than 6 and not more than 12 units per acre	2.2 x Land Cost per Person
High Density: More than 12 units per acre	1.7 x Land Cost per Person
Hotel-Motel Density: Total number of rooms	1.7 x Annual Occupancy Rate x Land Cost per Person

- (1) For purposes of calculating “Land Cost per Person” to determine the fee in-lieu under [this subsection](#):
- (a) Land Cost per Person=(Parkland Cost Factor)/(Parkland Level of Service)
  - (b) Where:
    - (i) “Parkland Cost Factor” is determined by the [director](#) based on the average purchase price to the City for acquiring an acre of parkland, excluding a metro or district park or golf course; and
    - (ii) “Parkland Level-of-Service” is:  
Parkland Level of Service=(City Population)/(Net Park Acreage)
    - (iii) “City Population” is determined by the City Demographer; and
    - (iv) “Net Park Acreage” is the total citywide acreage of neighborhood parks, pocket parks, and greenways, as determined by the [director](#) prior to adoption of the annual fee ordinance by the Council.
- (E) **Fee In-Lieu and Dedication.** If the [director](#) determines that payment of a fee in-lieu of parkland dedication is authorized under this [section](#) for only a portion of the land required to be dedicated under Section 23-3B-2010 (Dedication of Parkland), the [director](#) may allow an applicant to pay a fee in-lieu for that portion and require that the remaining land be dedicated. If an applicant dedicates parkland under Section 23-3B-2010 (Dedication of Parkland), the [director](#) may not include that acreage in calculating the fee in-lieu required by this [section](#) for any remaining land not included in the dedication.
- (F) **Appeal.** If the [director](#) rejects a request to pay a fee in-lieu of dedication under Subsection (B), the applicant may appeal the [director’s](#) decision to the Land Use Commission consistent with the procedures in Article 23-2I (Appeals). Before the Land Use Commission considers the appeal, the [director](#) shall present the case to the Parks Board for a recommendation, but failure by the Parks Board to act shall not prohibit the Land Use Commission from considering the appeal.

## 23-3B-3020 Parkland Development Fee

- (A) **Development Fee Required.** Except as provided in Subsection (C), an applicant must pay a parkland development fee as a condition to [approval of a residential subdivision or site plan](#) in order to ensure that land is developed with recreational amenities sufficient for park use.

(B) **Fee Amount.** The amount of the development fee is established in the annual fee schedule based on a recommendation by the **director** in accordance with this **subsection**.

(1) Parkland Development Fee

<b>Table 23-3B-3020(A): Parkland Development Fee</b>	
<b>Density Classification</b>	<b>Residents in Each Dwelling Unit</b>
Low Density: Not more than 6 units per acre	2.8 x Park Development Cost per Person
Medium Density: More than 6 and not more than 12 units per acre	2.2 x Park Development Cost per Person
High Density: More than 12 units per acre	1.7 x Park Development Cost per Person
Hotel-Motel Density: Total number of rooms	1.7 x Annual Occupancy Rate x Park Development Cost per Person

(2) For purposes of determining the development fee under Subsection (B)(1):

$$\text{Park Development Cost} = (\text{Park Development Cost Factor}) / (\text{Park Facilities Level of Service})$$

Where:

(a) "Park Development Cost Factor" is determined by the **director** based on the average cost of developing an acre of parkland up to the standards of a neighborhood park; and

(b) "Park Facilities Level-of-Service" is:

$$\text{Park Facilities Level of Service} = (\text{City Population}) / (\text{Number of Developed Parks})$$

Where:

(i) "City Population" is determined by the City Demographer; and

(ii) "Number of Developed Parks" is the total number of parks developed with a recreational amenity or trail, as determined by the **director** prior to adoption of the annual fee ordinance by the Council.

(C) **Construction of Amenities.** The **director** may allow an applicant to construct recreational amenities on public or private parkland, if applicable, in-lieu of paying the development fee required by this **section**. In order to utilize this option, the applicant must:

- (1) Post fiscal surety in an amount equal to the development fee;
- (2) If a dedication of land is required, construct recreational amenities prior to the dedication in a manner consistent with the parkland dedication operating procedures; and
- (3) Document the required amenities concurrent with **subsection** or **site plan** approval, in a manner consistent with the parkland dedication operating procedures.

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**23-3B-3030 Fee Payment and Expenditure**

- (A) Payment of a fee required under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) or Section 23-3B-3020 (Parkland Development Fee) must be paid as required by this subsection.
- (1) If a fee in-lieu of dedication or a parkland development fee is required as a condition to **subdivision** approval, the applicant must deposit the fee with the City before final plat approval. The applicant may defer payment of a fee until **site plan** approval unless development proposed within the **subdivision** is exempt from the requirement to submit a **site plan** under Division 23-6A-2 (Exemptions).
  - (2) If a fee in-lieu of dedication or a parkland development fee is required as a condition to **site plan** approval, the applicant must deposit the fee with the City before the **site plan** may be approved.
- (B) The **director** shall place fees paid under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) or Section 23-3B-3020 (Parkland Development Fee) into separate funds and use the fees consistently with the requirements of this subsection.
- (1) **Except as provided in Subsection (B)(3), the director** shall use fees paid under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) solely to acquire parkland or recreational easements that will benefit residents of the development for which the fees are assessed. These parkland or recreational easements must be located within a service area designated by the **director** under the Parkland Dedication Operating Procedures.
  - (2) The **director** shall use fees paid under Section 23-3B-3020 (Parkland Development Fee) solely to acquire and develop recreational amenities that will benefit residents of the development for which the fees are assessed and are located within a service area designated by the **director** under the Parkland Dedication Operating Procedures.
  - (3) The **director** may use fees paid under **Section 23-3B-3010** (Fee In-Lieu of Parkland Dedication) consistent with the purposes described in Subsection (B)(2) if, within one year from the date the fees are appropriated for expenditure, the **director** determines that land which meets the requirements of Section 23-3B-2020 (Standards for Dedicated Parkland) is unavailable for purchase within the service area for which the fees were assessed.
- (C) The City shall expend a fee collected under this **article** within five years from the date the fees are appropriated for expenditure by the **director**. This period is extended by five years if, at the end of the initial five-year period, less than 50 percent of the residential units within a **subdivision** or **site plan** have been constructed.
- (D) If the City does not expend a fee payment by the deadline required in Subsection (C), the **subdivision** or **site plan** applicant who paid the fee may request a refund under the requirements of this subsection.
- (1) A refund may only be requested for unbuilt units for which a fee in-lieu of dedication was paid. The refund request must be made in writing and filed with the Parks and Recreation Department not later than 180 calendar days after the expiration of the deadline under Subsection (C).
  - (2) If the refund request is timely filed, the **director** shall:
    - (a) Refund the amount of unspent fees that were collected under this **article** in connection with approval of a **subdivision** or **site plan**; and

- (b) If a [site plan](#) for which fees were assessed was subsequently revised to reduce the number of units, recalculate the amount due based on the reduced number of units and refund any fees paid in excess of that amount.

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