

RESOLUTION TO ESTABLISH INTERIM DEVELOPMENT REGULATIONS IN AREAS WITH INADEQUATE DRAINAGE

WHEREAS, recent increases in redevelopment, coupled with undersized, collapsed and nonexistent storm water infrastructure has exacerbated flooding in residential areas within the Onion Creek, Williamson Creek, Walnut Creek and Boggy Creek watersheds

WHEREAS, current development regulations and storm water infrastructure are insufficient to prevent drainage systems from exceeding capacity or to address storm water issues associated with infill development;;

WHEREAS, Section 11.086 of the Texas Water Code generally prohibits diverting or impounding surface waters in a manner that damages the property of another through overflow;

WHEREAS, the interim development regulations adopted by the ordinance that results from passage of this resolution help to ensure greater compliance with state law and to protect the health, safety, and welfare of residents by limiting development that would further overburden existing storm water infrastructure, while studies can proceed to measure the impact of redevelopment of older properties and the effect of redevelopment on aging infrastructure;

WHEREAS, the City of Austin is currently engaged in a comprehensive rewrite of its land development code, which among other things, will address appropriate regulations for redevelopment and other more permanent solutions to improve storm water infrastructure;

WHEREAS, the regulations adopted by the ordinance that results from passage of this resolution are intended as an interim measure, until more permanent solutions are set in place;

WHEREAS, this resolution proposes the following definitions and measurements for use in development of the regulations:

- Commercial Use Building means a structure used for one or more of the commercial uses defined under Section 25-2-4 of the Land Development Code, including without limitation a vertical mixed use structure defined under Section 25-2, Subchapter E of the Land Development Code;
- Director means the Director of the Watershed Protection Department and Development Services Department;
- Flood Prone Zone shall refer to all properties located within the Onion Creek, Williamson Creek, Walnut Creek, Boggy Creek watersheds as more particularly defined under Section 25-8-2 of the Land Development Code;
- Gross Floor Area means the total square feet of all enclosed space within a structure, regardless of its dimensions, that is not otherwise exempted from the calculation of gross floor area under an explicit provision of the Land Development Code; and
- Residential Use Building means a structure used for one or more of the residential uses defined under Section 25-2-3 of the Land Development Code;

WHEREAS, for all properties located within the Flood Prone Zone, applications for building and demolition permits for a commercial use or residential use building must comply with the following to be accepted for filing:

- An application for a demolition or relocation permit for a Commercial Use or Residential Use Building must be filed concurrently with a application for a either of the next two types of permit ;
- For a building permit for a Residential Use Building or a site plan for a Commercial Use Building on a lot where a structure has been or will be demolished or relocated, the new structure's size is limited to a maximum Gross Floor Area equal to one hundred fifteen percent (115%) of the Gross Floor Area of the existing or pre-existing structure located on the lot; in the case that a lot is combined with an adjacent lot or lots, the new structure's size is limited to maximum Gross Floor Area equal to one hundred fifteen percent (115%) of total, combined Gross Floor Area of any existing or pre-existing structures on such combined lots;
- For a remodel permit to increase the size of a Residential Use Building or a Commercial Use Building, the structure's size after the remodel is

limited to a maximum Gross Floor Area equal to one hundred fifteen percent (115%) of the Gross Floor Area of the existing structure; and

WHEREAS, the City Council may waive by ordinance the moratoria imposed by adoption of this resolution as ordinance if the City Council determines and makes specific, detailed findings by 3/4th vote of the entire council that:

- The development regulations in the ordinance resulting from implementation of this resolution imposes undue hardship on the applicant;
- The development proposed by the applicant will not adversely affect, directly or indirectly, the public health, safety, and welfare; and
- The Director determined that the development proposed by the applicant will reduce the flooding impact to other properties, as compared to pre-development conditions; **NOW, THEREFORE**

BE IT RESOLVED:

The City Council directs the City Manager to prepare administrative rules deemed necessary for implementation of this resolution. The requirements of this resolution control in the event of a conflict with any administrative rules;

The City Council waives the requirement for Planning Commission review of the ordinance adopting this resolution;

The City Council finds that the flooding impacts resulting from development in the Floor Prone Zone constitutes an emergency. Because of the emergency, the City Council further directs the City Manager to prepare the ordinance for City Council to adopt immediately for the immediate preservation of the public peace, health, and safety.