

ORDINANCE NO. 941205-A

AN ORDINANCE READOPTING AND AMENDING THE COMPOSITE ORDINANCE (ORDINANCE NO. 911017-B) TO BE APPLICABLE PENDING FINAL RESOLUTION OF QUICK V. CITY OF AUSTIN; WAIVING THE REQUIREMENTS OF 2-2-3, 2-2-5, 2-2-7, AND 13-1-981 OF THE AUSTIN CITY CODE OF 1992, AND DECLARING AN EMERGENCY.

WHEREAS, there is uncertainty as to whether the provisions of the SOS Ordinance may be applied to development within the Barton Springs Zone, NOW, THEREFORE,

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

PART 1. That the provisions of Ordinance 911017-B with amendments indicated therein, attached hereto as Exhibit "A" and incorporated herein for all purposes, shall apply to development within the Barton Springs Zone pending a final judgment and exhaustion of all appeals in Cause No. 92-0637 styled Jerry J. Quick, et al. v. City of Austin, or until the above-styled case is otherwise resolved.

PART 2. That during the time period this Ordinance is applicable, development applications which have been filed under the requirements of Chapter 13-7, Article I, Division V of the Austin City Code of 1992, as amended, may proceed under those requirements or, at the developer's option, may be amended and proceed under the provisions of this Ordinance.

PART 3. That the City Manager or his designee is directed to carefully review the provisions of this Ordinance and to present a report to City Council no later than two (2) weeks after the date of this Ordinance with any amendments to said Ordinance he deems necessary, favorable, or advisable.

PART 4. That the requirements imposed by Section 2-2-3, 2-2-5, 2-2-7, and 13-1-981 of the Austin City Code of 1992, as amended, regarding the presentation and adoption of ordinances are hereby waived by the affirmative vote of at least five (5) members of the City Council.

PART 5. That the need to readopt and amend the Composite Ordinance to be applicable pending final resolution of Quick v. City of Austin constitutes an emergency and the City

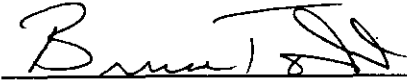
Council hereby declares that an emergency exists concerning the safe, orderly, and healthful growth and development of the City. To assure the immediate preservation of the public peace, health, and safety, this ordinance shall become effective immediately upon its passage as required by this emergency and as provided by the City Charter of the City of Austin.

PASSED AND APPROVED

December 5

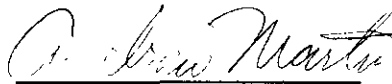
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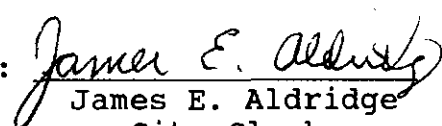
Bruce Todd
Mayor

APPROVED:



Andrew Martin
City Attorney

ATTEST:



James E. Aldridge
City Clerk

MC/HN/ra

EXHIBIT 'A' TO ORDINANCE NO. 941205-A

underline - amendments from 911017-B

underline - amendments which repeat provisions in 1992 Austin City Code

ORDINANCE NO. 911017-B

AN ORDINANCE ADOPTING ~~NON-DEGRADATION~~ REGULATIONS TO PREVENT DEGRADATION TO ~~FOR~~ THE BARTON CREEK WATERSHED AND THE WATERSHEDS CONTRIBUTING TO BARTON SPRINGS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the purpose of this Ordinance is to prevent degradation to the water quality, quantity, and clarity of Barton Creek and Barton Springs, and recognizing that this requires a multifaceted approach to controlling non point source pollution from developing sites by controlling pollution concentrations on each site, requiring flow control, employing pollution reduction measures, limiting impervious cover, and requiring monitoring and inspection of water quality controls; NOW THEREFORE,

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

PART 1. Chapter 13-1 (Development Process) of the Austin City Code of 1981 is hereby amended as follows:

- (1) Amend Section 13-1-22 (General Terms) by amending the definition of Development to hereafter read as follows:

Development means the construction or reconstruction of a building, road, or the placement of any other structure on land; the excavation, mining, dredging, grading, or filling of land; the clearing or removal of vegetation from land; or the deposit of refuse, waste, or fill on land. Notwithstanding the previous sentence, the following activities are not development, as that term is used in this Land Development Code:

- (1) lawn and yard care, including mowing, gardening, tree care, and maintenance of landscaped areas;
- (2) selective removal of trees or other vegetation damaged by natural forces;

- (3) activities commonly associated exclusively with agricultural uses, if the activity is not prohibited by Section 13-7-15; and
- (4) the repair, maintenance, or installation of a utility, drainage, or street system where the repair, maintenance, or installation does not require land disturbance or result in additional impervious cover.
- (2) Amend Section 13-1-604 (Small Projects) by deleting subsection (a) (7) (The Clearing of Vegetation) and redesignating the remaining subsections accordingly.
- (3) Amend Section 13-1-901 (Grading and Drainage Facilities) to hereafter read as follows:

Sec. 13-1-901 GRADING, DRAINAGE AND WATER QUALITY FACILITIES

(a) The accountable official shall inspect all land grading, drainage, and detention and water quality control facilities to determine compliance with the released site plan.

(b) When construction of these facilities is complete, the design engineer shall submit a concurrence letter to the accountable official stating that in the Engineer's opinion, the project is in substantial conformance with the approved construction plans. A final inspection will then be performed by the accountable official. If all ordinance and construction plan requirements are met, the Drainage/engineering hold on the certificate of occupancy will be released by the accountable official.

(c) In addition to (b) above, for facilities located in the Barton Creek Watershed or Barton Springs Zone and subject to the provisions of 13-7-34 and 13-7-35, final acceptance of facilities by the City, or approval of certificates of occupancy shall not be issued until a water quality facility inspection and certificate of compliance is completed by the City.

PART 2. Chapter 13-2 (Land Use), Article V (Water Quality Related Development Intensities) of the Austin City Code of 1981 is hereby amended as follows:

- (1) Delete all references to "sedimentation basins", "filtration basins", "detention/sedimentation basin", or "sedimentation/filtration basins" and replace such references with "water quality controls".
- (2) Delete all references to "water quality buffer zone" and replace such references with "water quality transition zone".

- (3) Amend Section 13-2-2 by adding the definition of Cluster Housing to hereafter read as follows:

Cluster Housing, for the purposes of Article I, Divisions 3 and 4, means development of single family subdivisions in such a manner that all lots and infrastructure are limited to 60% of the uplands area of the parcel being subdivided. The 40% remainder must all be located downstream for the purposes of receiving overland drainage from the development and must be left in, or restored to, its natural state.

- ~~(3)~~(4) Amend Section 13-2-502 (Exemptions) by adding new subsections (n), (o), and (p) to read as follows:

(n) Development in the Barton Creek Watershed or Barton Springs Zone which, prior to the October 27, 1991, was not subject to any previous City watersheds regulations, shall comply with this Code.

(o) Notwithstanding any other provisions of this Section, development within the Barton Springs Zone or the Barton Creek Watershed shall be exempt from the provisions of this Article V (but shall not be exempt from the provisions of Chapter 13-7 Article I) only if it meets one or more of the following additional exemption provisions:

(1) Final plats of single family or duplex development approved prior to May 18, 1991.

(2) Developments with a specific unexpired special exception or unexpired waiver which has been previously granted by the City Council.

(3) Single family development that proposes impervious cover of 7% or less, excluding land in the Critical Water Quality Zone or the 100-year floodplain; provided that development in the critical water quality zone shall be limited to the activities listed in Section 13-7-23. ~~residential lots of no less than five acres per lot and is appropriately restricted to that residential density.~~

(4) Development exempt pursuant to state law.

(5) Preliminary plan, final plat, or zoning site plan, approved prior to May 18, 1986; provided that an exemption granted by this subsection shall expire as follows:

(i) Preliminary plan exemption shall expire on May 18, 1991 unless it had or obtained an approved final plat for at least 50% of the land area of the development shown on the preliminary plan.

(ii) Preliminary plan exemption shall expire on May 18, 1996 unless an application for final plat has been filed for all of the remaining, unplatted land area of the development shown on the preliminary plan; if this final plat is not approved, the preliminary plan exemption expires.

(iii) Zoning site plan exemption shall expire on May 18, 1996 unless an application for the construction element of the site plan has been filed; if this construction element for the site plan is not approved, the zoning site plan exemption expires.

(iv) Final plat exemption shall expire on May 18, 1996 unless a site development permit, building permit or site plan has been approved.

~~(5) Development of a parcel of land not legally subdivided, which is not required to be subdivided under Local Government Code Chapter 212, or prior state subdivision statute, where said parcel of land has an unexpired Council approved site plan on October 27, 1991.~~

(6) An exemption based upon a development which has either an unexpired site plan for a planned unit development or a planned development area agreement shall expire on January 1, 2000, unless all remaining site development permits required for the development are filed; if these site development permits are not approved, the planned unit development exemption or planned development area agreement exemption expires.

~~(6) Development exempt pursuant to 13-2-502(b) and (d), or (f), subject to (k), provided that the development was subject to a previous watershed ordinance which required water quality controls.~~

(7) Facilities by a school district which enters into a development agreement with the City of Austin pursuant to Section 212.902 of the Texas Local Government Code, which agreement includes water quality protection with the goal of achieving the intent of this Article and Chapter 13-7, Article I.

(8) Development exempt in ~~(2), (5) or (6)~~ (4) or (5) above, and which prior to October 27, 1991 was subject to previous City watershed regulations, shall:

(i) Improve water quality treatment of required water quality controls by increasing the capture volume as described in Section 13-7-18(f)(6),

(ii) Comply with the fiscal security requirement for the required controls as described in Section 13-7-7,

(iii) Comply with the maintenance, inspection and operating permit requirements of Section 13-7-9 and 13-7-11, excluding requirements for monitoring per Section 13-7-36(a), and

(iv) Comply with the erosion and sedimentation control requirements of 13-7-14.

(9) Development exempt under subsections (o) (1) through (o) (5) above may resubdivide land or reconfigure a development plan if it does not result in an overall increase in the number of residential units or impervious cover above that on the exempted subdivision or plan. In addition, areas reserved for wastewater irrigation and not restricted against future development may be subdivided and resubdivided when no longer needed for irrigation purposes; provided, however the subdivision or resubdivision of such irrigable area shall be required to comply with this Article.

(p) Development in the Barton Creek Watershed or Barton Springs Zone which is subject to Ordinance 860508-V, as amended shall be subject to the following additional requirement:

Said development shall improve water quality treatment of required water quality controls by increasing the capture volume as described in Section 13-7-18(f) (6), shall comply with the fiscal security requirements for the required controls as described in Section 13-7-7, shall comply with the maintenance, inspection and operating permit requirements of Section 13-7-9 and 13-7-11 excluding requirements for monitoring per Section 13-7-36(a), and shall comply with the erosion and sedimentation control requirements of 13-7-14.

~~(4)~~(5) Amend Section 13-2-505 (Planning Commission Variances) by adding a new subsection (e) to read as follows:

(e) Notwithstanding any other provisions of this Section, within the Barton Creek Watershed or the Barton Springs Zone no variance shall be granted if it does not result in water quality equal to or better than would be achieved under compliance with this Code without the variance requested.

~~(5)~~(6) Amend Section 13-2-506 (Administrative Variances) by adding a new subsection (d) to read as follows:

(d) Notwithstanding any other provisions of this Section, within the Barton Creek Watershed or the Barton Springs Zone no variance shall be granted if it does not result in water quality equal to or better than would be achieved under compliance with this Code without the variance requested.

(6)(7) Amend Section 13-2-540 (Compliance) to hereafter read as follows:

Sec. 13-2-540 COMPLIANCE

All development located in watersheds designated herein as water supply suburban must comply with the provisions of this Division, according to the following subcategories:

- (1) Class I: Bull, West Bull, Dry (North), Dry (West), Taylor Slough, other Lake Austin (east side from Tom Miller Dam to Bull Creek), Town Lake (north side from Johnson Creek to Tom Miller Dam), Town Lake (south side from Barton Creek to Tom Miller Dam), and that portion of the Slaughter Creek watershed (downstream of FM 1826) which is located in the Edwards Aquifer Recharge or Contributing Zones.
- (2) Class II: That portion of the Williamson Creek watershed which is located in the Edwards Aquifer Recharge or Contributing Zones.
- (3) Class III: Those portions of the Lake, Rattan, Buttercup, and Brushy Creek Watersheds which are located in the Edwards Aquifer recharge or contributing zones.

(7)(8) Amend subsection (d) of Section 13-2-543 (Water Quality Buffer Zone) to hereafter read as follows:

(d) Water quality controls ~~which serve development in the uplands or transition zone~~ are permitted in the water quality transition zone.

(9) Amend Section 13-2-544 (a), (b), (c), (d), (e) and (f) as follows:

(a) The projected impervious cover for all one-family residential development of land in the uplands zone with minimum lot sizes of 5,750 square feet or more shall not exceed the maximums specified below based on the net site area, or the maximums specified if transfers of development intensity are made in accordance with Sec. 13-2-545:

Barton Springs Zone Impervious Cover

	<u>Class I</u>	<u>Class II</u>	<u>Class III</u>
Standard Development	30%	40%	-
Standard with transfer	35%	45%	-
Cluster development	35%	45%	-
Cluster with transfer	40%	50%	-

Other Watersheds Impervious Cover

	<u>Class I</u>	<u>Class II</u>	<u>Class III</u>
Impervious cover	30%	40%	45%
with transfer	40%	55%	50%

(b) The projected impervious cover for all one-family and two-family residential development of land in the uplands zone, other than those subject to subsection (a), shall not exceed the maximums specified below based on the net site area, or the maximums specified if transfers of development intensity are made in accordance with Sec. 13-2-545:

Barton Springs Zone Impervious Cover

	<u>Class I</u>	<u>Class II</u>	<u>Class III</u>
Standard Development	30%	40%	-
Standard with transfer	35%	45%	-
Cluster development	35%	45%	-
Cluster with transfer	40%	50%	-

Other Watersheds Impervious Cover

	<u>Class I</u>	<u>Class II</u>	<u>Class III</u>
Impervious cover	30%	40%	55%
with transfer	40%	55%	60%

(c) The projected impervious cover for multifamily residential development of land in the uplands zone shall not exceed the maximums specified below based on the net site area, or the maximums specified if transfers are made in accordance with Sec. 13-2-545:

Barton Springs Zone Impervious Cover

	<u>Class I</u>	<u>Class II</u>	<u>Class III</u>
Impervious cover	40%	60%	-
with transfer	45%	65%	-

Other Watersheds Impervious Cover

	<u>Class I</u>	<u>Class II</u>	<u>Class III</u>
Impervious cover	40%	60%	60%
with transfer	55%	65%	65%

(d) Except as provided by subsections (e) and (f) below, the projected impervious cover for commercial development of land in the uplands zone shall not exceed the maximums specified below based on the net site area, or the maximums specified if transfers are made in accordance with Sec. 13-2-545:

Barton Springs Zone Impervious Cover

	<u>Class I</u>	<u>Class II</u>	<u>Class III</u>
Impervious cover	40%	60%	-
with transfer	45%	65%	-

Other Watersheds Impervious Cover

	<u>Class I</u>	<u>Class II</u>	<u>Class III</u>
Impervious cover	40%	60%	65%
with transfer	55%	70%	70%

(e) Notwithstanding subsection (d), the projected impervious cover for retail commercial development in Class I except within the Barton Springs Zone watersheds shall not exceed 50% of the net site area, or 60% if transfers of development intensity are made in accordance with Sec. 13-2-545, for all land within 1,000 feet of the right-of-way of two intersecting roadways, each designated as a major arterial, parkway, expressway, or freeway in the Austin Metropolitan Area Roadway Plan, as in effect on January 1, 1986 where at least one of the roadways is designated a parkway, expressway, or freeway, limited, however, to intersections which are located within the city limits of the City of Austin or which are annexed thereto at a later date or which request limited or full purpose annexation at the time for final plat approval.

(f) Notwithstanding subsection (d), the projected impervious cover for retail commercial development in Class I except within the Barton Springs Zone watersheds shall not exceed 60% of the net site area, or 70% if transfers of development intensity are made in accordance with Sec. 13-2-545, for all land within 1,500 feet of the right-of-way of two intersecting roadways maintained by the state, where such intersections are located within the city limits of the City of Austin or are annexed thereto at a later date or which request limited or full purpose annexation at the time of final plat approval.

(10) Amend Section 13-12-563 (e) as follows:

(e) ~~No--w~~ Water quality controls are permitted in the water quality transition zone.

(11) Amend Section 13-2-564 (a), (c), (d), and (e) (Uplands Zone) of the Austin City Code of 1992 to read as follows:

(a) Residential development in the uplands zone is limited to:

(1) Except in the Barton Springs Zone one and two-family residential housing units at an average density of one unit or less for every two acres of net site area, with a minimum lot size of three-quarter acre, or up to one unit or less for every acre with a minimum lot size of one-half acre if transfers of development intensity are made in accordance with Sec. 13-2-565.

(2) Except in the Barton Springs Zone cluster housing at an average density of one unit or less for each one acre of net site area, or up to two units per acre if transfers of development intensity are made in accordance with Sec. 13-2-565.

(3) In the Barton Springs Zone one and two-family residential housing units with impervious cover not to exceed 12% of the net site area with a minimum lot size of three-quarter acre or up to 17% of the net site area with a minimum lot size of one-half acre if transfers of development intensity are made in accordance with Sec. 13-2-565.

(4) In the Barton Springs Zone cluster housing with impervious cover not to exceed 17% of the net site area or 22% of the net site area if transfers of development intensity are made in accordance with Sec. 13-2-565.

(5) Development in watersheds other than Lake Austin or Lake Travis shall leave, or restore if necessary, at least 40% (all in the uplands zone) of the proposed cluster housing site in or to its natural state and shall leave it in the state to serve as a buffer located contiguous to the development for the purpose of receiving overland drainage.

(c) Where commercial or multifamily development is either zoned appropriately by the City of Austin, is designated for such use by the City Comprehensive Plan, is designated as such by a Municipal Utility District land plan with is part of an approved consent agreement with the city, or constitutes a maximum of 5 % of a subdivision with the remainder restricted to other residential or open space uses, impervious cover shall not exceed 40% of the net site area in the uplands zone. ~~or up to 50-%~~ If transfers of development intensity are made in accordance with Section 13-2-565, and subject to the 40 % buffer zone requirement of subsection (b) (2)-, maximum impervious cover shall be 45 % in the Barton Springs Zone or 50% in all other watersheds.

(d) Notwithstanding subsections (b) and (c), except within the Barton Springs Zone, the projected impervious cover for retail commercial development shall not exceed 50% of the net site area, or 60% if transfers of development intensity are made in accordance with Section 13-2-565, for all land within 1,000 feet of the right-of-way of two intersecting roadways, each designated as a major arterial, parkway, expressway, or freeway in the Roadway Plan, as in effect on January 1, 1986, where at least one of the roadways is designated a parkway, expressway, or freeway, limited however, to intersections which are located within the city limits of the City of Austin or which are annexed thereto at a later date or which request limited or full purpose annexation at the time of final plat approval.

(e) Notwithstanding subsections (b) and (c), except within the Barton Springs Zone, the projected impervious cover for retail commercial development shall not exceed 60% of the net site area, or 70% if transfers of development intensity are made in accordance with Section 13-2-565, for all land within 1,500 feet of the right of way of two intersecting roadways maintained by the state, where such intersections are located within the city limits of the City of Austin or are annexed thereto at a later date or which request limited or full purpose annexation at the time of final plat approval.

(12) Amend Section 13-2-565 (a), (b), (d), and (e) (Transfer of Development Intensity) of the Austin City Code of 1992 to read as follows:

(a) Except as limited by (c) below, for every one acre of land in the critical water quality zone or water quality transition zone which is dedicated to the city or another in fee simple and the gift is approved by the City, in the Barton Springs Zone the applicant is entitled to an additional 6,000 square feet of impervious cover for commercial, single family, or multifamily residential development in the uplands zone; in all other Water Supply Rural Watersheds the applicant is entitled to an additional one single-family residential housing unit or to an additional 6,000 square feet of impervious cover for commercial or multifamily residential development in the uplands zone. Dedication of land under this section may be credited toward satisfaction of the requirements of the parkland dedication requirement of Article IV, Division 2, Part B in accordance with the Administrative Manual.

(b) Except as limited by subsection (c) below, for every one acre of land in the water quality transition zone left undeveloped and undisturbed and included in density calculations elsewhere, in the Barton Springs Zone the applicant is entitled

to an additional 6,000 square feet of impervious cover for commercial, single family, and multifamily residential development in the uplands zone; in all other Water Supply Rural Watersheds the applicant is entitled to one additional single-family residential housing unit or to an additional 6,000 square feet of impervious cover for commercial or multifamily residential development in the uplands zone. Parkland gifts in subsection (a) are counted separately from this provision and the transfers are cumulative.

(d) For every one acre of land in the uplands zone which is located within a buffer of a critical environmental feature and which is left natural and undisturbed, in the Barton Springs Zone the applicant is entitled to an additional 6,000 square feet of impervious cover for commercial, single family, and multifamily residential development elsewhere in the uplands zone; in all other Water Supply Rural Watersheds the applicant is entitled, in addition to net site area calculations for that land, to one additional single-family residential housing unit or to an additional 6,000 square feet of impervious cover for commercial or multifamily residential development elsewhere in the uplands zone.

(e) For every one acre of land in the uplands zone which is utilized for wastewater irrigation, is legally restricted against any future development, and leaves the irrigation area in a natural state (other than for necessary irrigation lines and tailwater control berms), in the Barton Springs Zone the applicant is entitled to an additional 6,000 square feet of impervious cover for commercial, single family, and multifamily residential development elsewhere in the uplands zone; in all other Water Supply Rural Watersheds the applicant is entitled to one additional single-family residential housing unit or to an additional 6,000 square feet of impervious cover for commercial or multifamily residential development elsewhere in the uplands zone.

(13) Add a new Division 5 (Barton Creek Watershed) to read as follows:

DIVISION 5. Barton Creek Watershed

Sec. 13-2-580 COMPLIANCE

All development located in the Barton Creek Watershed must comply with the provisions of this Division.

Sec. 13-2-581 WATERWAY DEFINITIONS

Minor, intermediate, and major waterways are designated for any channel, creek, stream, branch, or watercourse according to drainage area as follows:

Waterway	Drainage Area
Minor	64 acres - 320 acres
Intermediate	320 acres - 640 acres
Major	over 640 acres

Sec. 13-2-582 CRITICAL WATER QUALITY ZONE

The critical water quality zone shall remain free of all development activity, except as provided for by Sec. 13-7-23.

Sec. 13-2-583 WATER QUALITY TRANSITION ZONE

(a) Water quality transition zones are established parallel to all critical water quality zones, and extend from the outer boundaries of the critical water quality zone for 300 feet along major waterways, 200 feet along intermediate waterways, and 100 feet along minor waterways.

(b) That portion of the water quality transition zone which lies over the Edwards Aquifer recharge zone shall remain free of all development activity, except as provided for by Sec. 13-7-23 and 13-2-583(c) (3).

(c) Except as restricted by (b), development in the water quality transition zone is limited to:

(1) Development authorized in the critical water quality zone (Sec. 13-7-23 and 13-2-542).

(2) Streets.

(3) Minor drainage facilities and water quality controls, provided such facilities or controls are in compliance with the floodplain modification guidelines section of the Environmental Criteria Manual as if they were in the floodplain.

(4) One and two-family residential housing units developed at an average density of one unit or less for every 3 acres, exclusive of land in the 100 year flood plain, with a minimum lot size of two acres.

(5) Vegetative filter strips which meet the criteria in the Environmental Criteria Manual.

Sec. 13-2-584 UPLANDS ZONE

(a) All development in the uplands zone must meet the non-degradation standards as defined in Section 13-7-34.

(b) Development limitations including impervious cover shall not exceed the limits set forth in Section 13-2-564.

Sec. 13-2-585 TRANSFER OF DEVELOPMENT INTENSITY

Transfer of Development Rights shall be set forth as in Section 13-2-565.

~~(9)~~(14) Redesignate Division 5 and 6 as Division 6 and 7, respectively.

~~(10)~~(15) Renumber 13-2-580 as 13-2-590.

~~(11)~~(16) Renumber 13-2-590 as 13-2-595, and amend such to hereafter read as follows:

Sec. 13-2-595 IMPERVIOUS COVER CALCULATIONS

(a) Impervious cover calculations shall include all roads, driveways, parking area, buildings, concrete and other impermeable construction covering the natural land surface. Swimming pool surface water area for pools which discharge to the storm drainage system shall also be included. All pedestrian sidewalks within public right-of-way are excluded from the impervious cover calculations. Water quality and detention basins, swales, and other conveyances for drainage purposes only shall not be calculated as impervious cover.

(b) Impervious cover credit shall not be given for permeable or interlocking pavers or for existing impervious cover; provided, however, that a maximum of 20% credit may be given when permeable pavers are approved by the Environmental and Conservation Services Department in accordance with Sec. 13-7-17 (Innovative Management Practices) for recharge enhancement purposes.

(c) Impervious cover shall be calculated as outlined in the Environmental Criteria Manual. For calculation purposes, impervious cover for one-family or duplex lots shall be assumed as follows:

OTHER THAN BARTON SPRINGS ZONE

Lot Area	Impervious Cover
1 acre or greater	5,000 square feet
10,000 square feet > 1 acre	3,000 square feet
5,750 square feet > 10,000 square feet	2,500 square feet
less than 5,750 square feet	2,000 square feet

- (4) Amend Section 13-7-3 (Definitions) by:

- (a) adding the following definitions:

Barton Springs Zone means all watersheds that contribute recharge to Barton Springs identified as such on the map appearing at the end of this Section, including but not limited to those portions of the Barton, Williamson, Slaughter, Onion, Bear and Little Bear Creek watersheds located in the Edwards Aquifer recharge or contributing zones.

Barton Creek Watershed means that land area that drains to Barton Creek. Barton Creek Watershed is shown as the cross-hatched area on the map appearing at the end of this Section. Development as defined in Section 13-1-22.

Vegetative Filter Strip as defined in the Environmental Criteria Manual.

- (b) amending the following definitions to read as follows:

Water quality controls mean sedimentation/filtration, detention/sedimentation, and retention/irrigation, retention, wet ponds, buffer zones, irrigation, vegetative filter strips or other water quality control structures or systems required by this Article or by Chapter 13-2, Article V to provide water quality benefits through the treatment of stormwater run-off.

Water quality transition zone means a transition zone established parallel to all critical water quality zones and defined in Section 13-2-523, 13-2-543, 13-2-563, or 13-2-583.

- (5) Amend Section 13-7-6 (Variances; Special Exceptions; Hardships; Waiver) by deleting subsection (c).
- (6) Amend Section 13-7-7 (Fiscal Security) to read as follows:

Sec. 13-7-7 FISCAL SECURITY

Fiscal security shall be required for development in the Barton Springs Zone and Barton Creek Watershed to ensure that the water quality controls required under Section 13-7-18 are functioning properly. Fiscal shall be calculated based on the formula found in the Environmental Criteria Manual. The fiscal security shall be returned to the applicant no earlier than one year after completion of the development, and only upon the receipt of a certified engineering concurrence letter verifying that the controls are constructed in conformance with the approved design as verified after inspection by the City.

- (7) Amend Section 13-7-9 (Maintenance) to read as follows:

Sec. 13-7-9 MAINTENANCE

(a) All water quality controls and their appurtenances required for commercial or multi-family development shall be maintained by the owner of the commercial or multi-family development. In the Barton Springs Zone or Barton Creek Watershed, water quality controls shall also require an annual operating permit in accordance with Section 13-7-11.

(b) All water quality controls required for single family or duplex residential development shall be maintained by the City after final acceptance. The City shall not be required to accept for maintenance any water quality control in the Barton Springs Zone which does not meet the criteria established in the Environmental Criteria Manual. In no circumstance shall a pond be accepted without meeting the provisions of 13-7-7, and the sampling requirements of Section 13-7-36(a).

(c) All water quality controls and their appurtenances shall be appropriately maintained in accordance with the maintenance standards established by the Environmental Criteria Manual.

- (8) Amend Section 13-7-11 (Inspection) to read as follows:

Sec. 13-7-11 INSPECTION AND OPERATING PERMIT

(a) At least once each year the City shall inspect the premises of each water quality control required to be maintained by the owner pursuant to 13-7-9.

(b) Any person or entity owning or operating commercial or multi-family development in the Barton Springs Zone or Barton Creek Watershed shall obtain and maintain in force an annual operating permit for the required water quality controls. A water quality control operating permit shall be granted or renewed after:

(1) The applicant has filed with the Environmental and Conservation Services Department a maintenance plan in accordance with the Environmental Criteria Manual:

(2) The applicant has illustrated compliance with Section 13-7-36(a); and

(3) the applicant has paid the permit fee as established by City Ordinance and supplied the necessary information to verify that the controls are in proper operating condition.

(c) The Permit may be transferred to new owners/operators of the commercial or multi-family development only if the new owners/operators sign the permit, accept responsibility for the water quality controls at the time of transfer of the development, and document the transfer of the permit on a form provided by the City no more than thirty (30) days after the transfer of the development.

(d) No permit shall be granted or renewed until or unless the permit fee has been paid and the facility is in operating condition as designed. The City may inspect and/or accept a report from a registered engineer verifying that the water quality control is in operating condition as designed. The fee shall be paid simultaneously with the filing of the application. No refund or rebate of a permit fee shall be allowed based upon denial of the permit, suspension or revocation of the permit, or discontinuance of use of a water quality control. The permit fee shall be sufficient to cover the cost of inspection and monitoring of all of the water quality controls operated under the permit, as required in Section 13-7-36(a), and the required amount dedicated to this purpose.

- (9) Amend Section 13-7-14 (Erosion and Sedimentation Control) to hereafter read as follows:

Sec. 13-7-14 EROSION AND SEDIMENTATION CONTROL

(a) Erosion and sedimentation controls in accordance with the specifications established in the Environmental Criteria Manual are required for all construction and development, including without limitation commercial, multi-family, single-family, and duplex construction, the construction of all roads, utilities, parks, golf courses, water quality controls, detention basins, and all other activities utilizing clearing, trenching, grading or similar construction techniques.

(b) Projects shall not be considered complete until restoration has been made, the approved permanent vegetation established, and installation certified for acceptance by the Environmental and Conservation Services Department after receipt of the Engineer's Concurrence Letter. In the event the City accepts maintenance responsibility for the streets, drainage facilities, and utilities, or issues a temporary or permanent Certificate of Occupancy or Compliance before completion of restoration requirements, the City and the developer shall enter into a separate and enforceable agreement to ensure completion of said restoration requirements within a specified time frame.

(c) Modifications to approved erosion control and construction sequencing plans may be made in the field after two days written

notice to the permit holder if the City inspector deems the control or sequencing inappropriate or inadequate, and has confirmed those findings with and received written approval from the Environmental and Conservation Services Department. Minor changes which result in an upgrading of erosion controls or simply reflect the progression of construction on a site may be accomplished in the field without such written approval.

(d) Development in the Barton Springs Zone or Barton Creek Watershed shall have the following additional erosion and sedimentation control requirements:

(1) Development shall require a temporary erosion and sedimentation control plan and water quality plan certified by a registered professional engineer and approved by the Environmental and Conservation Services Department which will control off-site sedimentation during the construction of the project by temporary structural controls, site management practices, or other approved methods until permanent revegetation is certified complete. The temporary erosion control plan must be phased to be effective at all stages of construction and must be adjusted, maintained, and repaired as necessary. A water quality permit shall be approved in conjunction with the site plan approval.

(2) The Owner shall designate a Project Manager to the City who shall be responsible for managing the on-going compliance with the erosion and sedimentation control elements of the site plan and water quality plan during the construction period.

(3) Modification and additions to the approved temporary erosion control plan will be deemed necessary by the City if it is observed during construction that the plan is inadequate to control off-site sedimentation from the project. Plan modifications, excluding minor adjustments, and any remediation plans for off-site areas impacted by sedimentation must be approved by the Environmental and Conservation Services Department and the engineer who certified the erosion and sedimentation control.

(4) The length of time between clearing and final revegetation of Site Plans and development projects shall not exceed 18 months, unless extended by the Director of Environmental and Conservation Services Department. If an applicant does not meet this deadline, or does not adequately maintain a temporary erosion and sedimentation control plan, the Director of the Environmental and Conservation Services Department shall notify the applicant in writing that the City

will repair the temporary controls and/or revegetate the disturbed area at the applicant's expense unless the work is completed or revegetation begun no later than 15 days after the date of the notice.

(5) It shall be a violation of this Code to allow sediment from a construction site to enter a minor, intermediate, or major waterway due to failure to maintain erosion controls or failure to follow the approved sequence of construction.

- (10) Amend Section 13-7-15 (Clearing and Temporary Site Disturbances) by adding a new subsection (e) to read as follows:

(e) The following general standards shall apply to all development:

(1) Clearing of existing vegetation is prohibited unless the Director of the Environmental and Conservation Services Department determines the clearing is:

(aa) pursuant to and in accordance with a released site plan or a released subdivision construction plan;

(bb) clearing that is not development, as that term is defined in Sec. 13-1-22;

(cc) authorized by subsection (b) or (c).

(2) Limited clearing of existing vegetation or other specified development activities necessary for surveying or geological testing is authorized before release of a site plan or subdivision construction plans to the minimum extent necessary to survey or conduct geological tests. Areas cleared for surveying or testing purposes shall not exceed a width of 15 feet. No tree with a diameter greater than eight inches shall be removed in connection with surveying or testing.

(3) Clearing of existing vegetation on land used for an agricultural use is prohibited if an application for approvals required to develop that land for other than an agricultural use is pending or such an approval has been granted, including without limitation an application for approval of a preliminary subdivision plan, a final subdivision plat, land use plan in connection with a water district, a site plan, or zoning as a district where the agricultural use is not permitted. The Director of the Environmental and Conservation Services Department may waive this prohibition if the Director determines the clearing has a bonafide agricultural purpose and is unrelated to the proposed development or sale of the land for non-agricultural uses.

(4) The location for clearing for temporary storage of spoils or construction equipment shall be shown on the released subdivision construction plan or site plan. Any such location shall be in accordance with the Environmental Criteria Manual. Topsoil shall be protected against erosion during and after the site grading operations. Where practical, the existing vegetation shall be left in place.

(5) The length of time between rough-cutting and final surfacing of a street shall not exceed 18 months. If an applicant does not meet this deadline, the Director of the Public Works and Transportation Department shall provide written notice to the applicant and to the record owner of the subject property that the City may complete the street or revegetate the disturbed area at the applicant's expense unless the work is completed no later than 60 days after the date of notice.

(6) Roadway clearing width shall not exceed the width of the dedicated right-of-way or twice the roadway surface width, whichever is less. Right-of-way shall not be increased to provide additional clearing under this provision. The roadway clearing width may be varied by the Director of the Environmental and Conservation Services Department where, in the Director's opinion, unusual topographic conditions necessitate such a variance. Clearing for short run (300 feet or less) road construction problem areas may be increased to two and one-half times the roadway width, right of way permitting. In cases where, due to slopes, clearing activities would normally result in cleared materials sliding onto areas beyond the clearing widths specified above, retaining walls or other methods shall be utilized to prevent such sliding.

- (11) Amend Section 13-7-16 by adding a new subsection (f) to read as follows:

(f) Notwithstanding subsections (a) and (b) above, in order to minimize disturbance of land area and native vegetation, cut and fill limitations for water quality controls in the Barton Creek Zone shall be determined in accordance with requirements established by the Environmental Criteria Manual.

- ~~(11)~~(12) Amend Section 13-7-18 (Water Quality Basins) by changing the Title to WATER QUALITY CONTROLS and adding a new subsection (f) to read as follows:

(f) In the Barton Creek Watershed and Barton Springs Zone the following additional requirements shall apply:

(1) Water quality controls and the drainage systems to the controls shall be designed, constructed and maintained in accordance with the specifications established by the Environmental Criteria Manual.

(2) Water quality controls shall be required according to the criteria established by this Section as evaluated for each development application. When required, water quality controls shall be shown on the slope map, preliminary plan, land use site plan, construction site plan and/or the subdivision construction plans as required by the Environmental and Administrative Manuals.

(3) Water quality controls shall be provided for all impervious cover within the water quality transition zone.

(4) For water quality controls located in series, the second or later control following sedimentation, extended detention, sedimentation/filtration or similar structure shall not require an impervious liner.

(5) Water quality controls shall be required for golf courses, playfields and similar improved recreational uses where fertilizers, herbicides, or pesticides are applied.

(6) Water quality controls in the Barton Creek Watershed or the Barton Springs Zone shall increase the capture volume by one tenth (.10) of an inch above the required one-half (.50) inch for each 10% increment of impervious cover over 20%.

~~{12}~~(13) Amend Section 13-7-19 (Structural Controls) by adding a new subsection (g) to read as follows:

(g) In the Barton Creek Watershed and in the Barton Springs Zone, water quality controls are required for all development, regardless of the level of impervious cover, if a vegetative filter strip cannot reduce the developed condition pollutant stormwater concentrations to the maximum discharge concentrations established in accordance with Section 13-7-34 or 13-7-35. The pollutant removal efficiency of the vegetated filter strip shall be determined according to the guidelines in the Environmental Criteria Manual or as substantiated in the technical literature and approved by the Environmental and Conservation Services Department. Provided, however, this subsection (g) shall not apply to development exempt under Section 13-2-502 (f) and (o).

~~{13}~~(14) Amend Section 13-7-23 (Critical Water Quality Zones) by adding a new subsection (e) to read as follows:

(e) In the Barton Creek Watershed and Barton Springs Zone, the critical water quality zone shall remain free of all construction activity, development, and alterations, except that the following may be permitted:

(1) Arterial, collector, and residential street crossings only as provided below:

(A) Major waterways may be crossed by arterial streets that are identified in the Roadway Plan.

(B) Intermediate waterways may be crossed by arterial and collector streets. No collector street crossing shall be within one mile of any other collector or arterial street crossing on the same waterway.

(C) Minor waterways may be crossed by arterial and collector streets. No collector street crossing shall be within 2,000 feet of any other collector or arterial street crossing the same waterway.

(D) Minor waterways may be crossed by a residential or commercial street only when necessary to provide access to property which cannot otherwise be safely accessed.

(2) Fences that do not obstruct flood flows.

(3) Public and private parks and open space (excluding parking lots), when a program of fertilizer, pesticide and herbicide use is approved by the Environmental and Conservation Services Department. Park development is limited to trails and outdoor facilities (other than stables and corrals for animals) for hiking, jogging, nonmotorized biking, and nature walks. Master planned parks, reviewed by the Planning Commission and approved by the City Council, may allow other recreational type development.

(4) Boat docks, piers, wharves, or marinas, and necessary access, pedestrian bridges, bicycle and golf cart paths (excluding parking lots) where otherwise authorized by this Land Development Code. All chemicals used to treat building materials that will be submerged in water must be approved by the Environmental and Conservation Services Department prior to issuance of a permit or release of a site plan. An approved list is found in the Environmental Criteria Manual.

(5) Wet ponds in the contributing zone are allowed with drainage areas no greater than 100 acres unless approved by the Director of the Environmental and Conservation Services

Department. The Director may approve wet ponds which serve a larger drainage area when they are designed as part of a regional stormwater and/or water quality collection system. Placement of wet ponds and utility lines are allowed when they are in compliance with the Floodplain modification guidelines section of the Environmental Criteria Manual and when approved by the Director of the Department of Environmental and Conservation Services.

(6) Notwithstanding any other provision of this subsection (e), no wastewater irrigation shall be allowed in the critical or transition zones.

~~(14)~~(15) Amend the title of Division 4 to hereafter read as follows:

DIVISION 4. Additional Standards for Water Supply and Barton Springs Zone Watersheds.

~~(15)~~(16) Amend Section 13-7-28 (Environmental Assessment) by amending the first sentence to hereafter read as follows:

"For all developments located partially or wholly within Water Supply Suburban and Water Supply Rural watersheds and the Barton Springs Zone watersheds, an environmental assessment is required."

~~(16)~~(17) Amend Section 13-7-29 (Overland Flow) to hereafter read as follows:

Sec. 13-7-29 OVERLAND FLOW

(a) Drainage patterns should be designed to prevent erosion, maintain infiltration and recharge of local seeps and springs, and attenuate the harm of contaminants collected and transported by stormwater. Overland sheet flow and natural drainage features and patterns shall be maintained to the greatest extent reasonably possible and the dispersion of run-off back to sheet flow shall be primary objective of drainage design where possible, depending on volumes and velocities of run-off for the subdivision, as opposed to concentrating flows in storm sewers and drainage ditches.

(b) Construction of enclosed storm sewers and impervious channel linings are permitted only when the Director of the Environmental and Conservation Services Department on the basis of competent engineering evidence, concludes that such storm sewers or impervious linings are the preferred option. Conflicts with this provision are subject to appeal to the Planning Commission.

(c) If storm sewers are deemed necessary as specified in (b) above, an applicant shall design the drainage system to mitigate its harmful impact on water quality by using structural devices or other methods to prevent erosion and dissipate discharges from outlets wherever practicable, and by loading discharges to maximize overland flow through buffer zones or grass-line swales.

~~(17)~~(18) Add a new Section 13-7-34 to read as follows:

Sec. 13-7-34 ADDITIONAL REQUIREMENTS FOR DEVELOPMENT IN THE BARTON CREEK WATERSHED

(a) The applicable background stormwater pollutant concentrations and the methodology to be used to determine better stormwater pollutant concentrations from the completed development shall be as contained in the Environmental Criteria Manual. Background pollutant concentrations are currently defined as the flow-weighted stormwater concentrations as measured by the United States Geological Survey (USGS) at the gauging station located on Barton Creek at State Highway 71 for the period from February 1979 through January 1991 (where stormwater flows were concurrently measured at the downstream USGS station located on Barton Creek at Loop 360). The current background concentrations for Total Suspended Solids, Total Phosphorous, Total Nitrogen, and Total Organic Carbon are 359 mg/l, 0.13 mg/l, 1.12 mg/l, and 28.07 mg/l respectively. The background stormwater pollutant concentrations will be re-calculated, and the methodology re-evaluated, to include additional data available 3 years from the date of the adoption of this Ordinance.

(b) For any development not otherwise exempt from this Article within the Barton Creek Watershed, the post-development stormwater concentration of Total Suspended Solids, Total Phosphorous and Total Nitrogen and Total Organic Carbon in stormwater leaving the development site water quality controls must be less than the background stormwater concentrations specified in 13-7-34(a). The required reduction in concentration for the four pollutants are specified in the following chart:

Pollutant	Percent Reduction	Maximum Discharge Concentration (mg/l)
TSS	60%	144.0
TP	15%	0.11
TN	15%	0.95
TOC	50%	14.0

(c) Water quality controls for the reduction of post-development pollutant concentrations shall be designed, constructed, and maintained in accordance with the specifications in the Environmental Criteria Manual. Controls other than those described in the Environmental Criteria Manual shall be reviewed and approved by the Environmental and Conservation Services Department. Pollutant removal efficiencies of such controls shall be substantiated by the applicant through the use of values found in published literature or values from verifiable engineering studies.

(d) Controls shall be located in sequence where needed to achieve the required removal rate. The sequence of controls shall be established based on criteria in the Environmental Criteria Manual or on sound engineering principles, such that the controls accomplish the intended purpose and minimize maintenance needs.

(e) An administrative variance shall be required in accordance with Section 13-2-506 for any portion of a proposed development which does not drain to an appropriate water quality control system and which does not meet the standards in (b) above. Any such area must be identified on the site plan. The burden of proof shall be on the applicant to demonstrate that:

(1) The stormwater run-off from any such areas will not adversely affect the quality of water in Barton Creek; and

(2) The proposed measures provide for the reduction of additional pollutant concentrations in other areas of the proposed development to compensate for the lower treatment level.

(f) Compliance with this Section shall be determined by an engineer in the Environmental and Conservation Services Department.

(g) All development subject to the provisions of this Section 13-7-34 shall be required to provide retention (no Discharge) of the first 1/4 inch of run-off from the developed drainage area.

(h) All development subject this Section 13-7-34 or to Section 13-7-35 shall include the following additional pollution reduction techniques:

(1) No untreated run-off arising from development shall be allowed to flow over critical environmental features that are recharge features.

(2) Developments must provide detention for the 2 year storm, unless it is determined by the City that the development is a participant in a regional stormwater detention facility, or centralized detention facility, or control of the 2-year storm will result in identifiable adverse flooding as determined by a Registered Professional Engineer and confirmed by the City.

(3) No untreated run-off arising from development, shall be allowed in defined channels containing recharge features provided that for single family residential lots adjacent to Transition zones, untreated run-off may be discharged through the transition zone provided that the transition zone meet the criteria in the Environmental Criteria Manual for vegetative filter strips.

(i) Commercial development shall also include Xeriscape with a fertilizer reduction element and an Integrated Pest Management Plan and shall include one of the following four pollution reduction measures: ~~two of the following five pollution reduction measures:~~

~~(1) Xeriscape with a fertilizer reduction element and an Integrated Pest Management Plan.~~

~~(1)(2)~~ A Street sweeping program or Covered parking with parking drainage isolated from stormwater.

~~(2)(3)~~ Pervious Pavement as a system of pollution reduction.

~~(3)(4)~~ Construction restricted to 0-10% slopes.

~~(4)(5)~~ The design includes separation of roof run-off from other treated run-off volumes and reirrigates this on the site.

(j) Commercial development which stores or dispenses fuel or which includes vehicle or machinery repair shall include a spill control and maintenance plan.

(18) Add a new Section 13-7-35 to read as follows:

Sec. 13-7-35 ADDITIONAL REQUIREMENTS FOR DEVELOPMENT IN THE BARTON SPRINGS ZONE

Development in the Barton Springs Zone shall comply with the provisions of Section 13-7-34. ~~with the exception of Section 13-7-34(g).~~

(19) Add a new Section 13-7-36 to read as follows:

Sec. 13-7-36 MONITORING AND ENFORCEMENT REQUIREMENT FOR WATER QUALITY CONTROLS IN THE BARTON SPRINGS ZONE AND THE BARTON CREEK WATERSHED

(a) For commercial and multi-family water quality controls in the Barton Springs Zone and Barton Creek Watershed, the City shall establish an independent program to monitor compliance with 13-7-34 and 13-7-35. A minimum of four (4) sample events per year for rainfall events greater than 1/4 inch shall be taken by the City. Three (3) samples a minimum of two (2) hours apart shall be taken for each of the sampled rainfall events.

(b) For commercial and multi-family water quality controls in the Barton Springs Zone and Barton Creek Watershed, if a violation of Sections 13-7-34 or 13-7-35 occurs on two (2) consecutive storm events, the developer and/or owner/operator will be given thirty (30) days after notification by the City to submit a plan to bring the project back into compliance with Section 13-7-34 or 13-7-35. If the violation occurs for an additional two (2) subsequent storm events, the City may suspend the operating permit, file an injunction to require immediate remedy of the violation, or take whatever actions the City deems necessary to gain compliance. The City shall also have the authority to use drainage funds to correct the problem within the designated water quality and drainage easements and bill the expense to the owner.

(c) The City may perform random inspections to verify compliance with this Section.

(d) For phased projects, if the development does not meet the provisions stated in (a) and (b) above, additional phases of the project may be halted by the City until proof that the violation has been corrected is submitted and approved by the City.

~~PART 4. This Ordinance shall be effective ten days from the date of passage.~~

PASSED AND APPROVED

October 17, 1991

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§

_____/signed/_____
Bruce Todd
Mayor

APPROVED: _____/signed/_____
Iris J. Jones
City Attorney

ATTEST: _____/signed/_____
James E. Aldridge
City Clerk