

RULE NO.: R161-19.20

POSTING DATE: October 8, 2019

NOTICE OF PROPOSED RULE

The Director of Watershed Protection Department proposes to adopt the following rule after November 9, 2019.

Comments on the proposed rule are requested from the public. Comments should be submitted to Dana Lappin, 505 Barton Springs Road, Suite 1100, Austin Texas, 78704, 974-2634, or via email at dana.lappin@austintexas.gov. To be considered, comments must be submitted before November 9, 2019, the 32nd day after the date this notice is posted. A summary of the written comments received will be included in the notice of rule adoption that must be posted for the rule to become effective.

An affordability impact statement regarding the proposed rule has been obtained and is available for inspection or copying at the address noted in the preceding paragraph.

EFFECTIVE DATE OF PROPOSED RULE

A rule proposed in this notice may not become effective before the effective date established by a separate notice of rule adoption. A notice of rule adoption may not be posted before November 9, 2019 (the 32nd day after the date of this notice) or not after December 17, 2019 (the 70th day after the date of this notice).

If a proposed rule is not adopted on or before December 17, 2019, it is automatically withdrawn and cannot be adopted without first posting a new notice of a proposed rule.

TEXT OF PROPOSED RULE

A copy of the complete text of the proposed rule is available for public inspection and copying at the following locations. Copies may be purchased at the locations at a cost of ten cents per page:

Watershed Protection Department, located at 505 Barton Springs Road, Suite 1200, Austin, TX, 78704; and

Office of the City Clerk, City Hall, located at 301 West 2nd Street, Austin, Texas.

BRIEF EXPLANATION OF PROPOSED RULE

R161-19.20: Revises Environmental Criteria Manual Section 1.8, *Impervious Cover Calculation Area*, as follows:

- Section 1.8.1, *Calculations* – Cleans up language pertaining to animal corrals and porous pavement. Adds language related to solar panel impervious cover. Adds language related to single-family access ramps to align with code changes. Capitalizes the word “Department”. Adds language related to eaves and overhangs for structures.
- Section 1.8.2, *Construction on Slopes* – Changes words from “upslope” to “upgradient” and “downslope” to “downgradient”. Updates department name. Clarifies that slopes shall be restored to a slope of no more than 3:1. Adds language related to clarify that site plans and exhibits shall use two-foot minimum contour delineation.

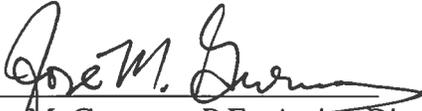
AUTHORITY FOR ADOPTION OF PROPOSED RULE

The authority and procedure for the adoption of a rule to assist in the implementation, administration, or enforcement of a provision of the City Code is established in Chapter 1-2 of the City Code. The authority to regulate water quality is established in Chapter 25-8 of the City Code.

CERTIFICATION BY CITY ATTORNEY

By signing this Notice of Proposed Rule (R161-19.20), the City Attorney certifies the City Attorney has reviewed the rule and finds that adoption of the rule is a valid exercise of the Director's administrative authority.

REVIEW AND APPROVED



Jose M. Guerrero, P.E., Acting Director
Watershed Protection Department

Date: 09-23-2019



Anne Morgan
City Attorney

Date: 10/4/19

This Notice of Proposed Rule was posted on a central bulletin board at City Hall by the City Clerk. Date and time stamp is on the front of the notice.

1.8.0 - IMPERVIOUS COVER CALCULATION CRITERIA

1.8.1 - Calculations

- A. This section applies to the impervious cover requirements of Chapter 25-8, Subchapter A of the Land Development Code. The impervious cover requirements of Chapter 25-8, Subchapter A do not restrict impervious cover on a single-family or duplex lot but apply to the subdivision as a whole. This section does not apply to impervious cover calculations for the purposes of complying with Chapter 25-7 of the Land Development Code.
- B. Impervious cover is defined as the total area of any surface that prevents the infiltration of water into the ground, such as roads, parking areas, concrete, and buildings. Impervious cover calculations shall include all roads, driveways, parking areas, buildings, concrete, and other impermeable construction covering the natural land surface. Buildings or structures raised above the ground (e.g., pier and beam foundation) shall be considered impervious cover. Unpaved roads, driveways, and parking areas compacted by vehicle use shall be considered impervious cover. ~~Corrals compacted by horses or other livestock shall be considered impervious cover.~~ Solar panel base and foundations are considered impervious cover, while solar panels shall be counted at 50 percent of the area of the panel if located within an area considered pervious.

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 shall be counted as impervious. A covered deck shall be considered impervious. Also, for a site used for the storage of scrap and metal salvage, including auto salvage, the entire designated scrapyard storage area shall be considered impervious cover.

Areas used on an ongoing or permanent, operational basis for the storage of dirt, rocks, or gravel shall be considered impervious cover. Spoils piles on a permitted construction site are not considered impervious cover. Pallets utilized for the storage of pavers, plastic bags of fertilizer or soil, or construction materials shall be considered impervious cover. For empty pallets or pallets used for the storage of potted plants, 50 percent of the horizontal area of pallet storage shall be counted as impervious cover. Potted plants stored on the ground shall not be considered impervious cover.

- C. Impervious cover calculations exclude:

- sidewalks in a public right-of-way or public easement;
- multi-use trails open to the public and located on public land or in a public easement;
- water quality controls, excluding subsurface water quality controls;
- detention basins, excluding subsurface detention basins;
- drainage swales and conveyances;
- the water surface area of ground level (including in ground and above ground) pools, fountains, and ponds;

- areas with gravel placed over pervious surfaces that are used only for landscaping or by pedestrians and are not constructed with compacted base;
- weed screens;
- solar screen tents;
- porous pavement designed in accordance with Section 1.6.7 of this manual, limited to only pedestrian walkways and multi-use trails, and located outside the Edwards Aquifer Recharge Zone (Note: This exemption does not apply to patios, plaza, sport courts, or other non-walkway pedestrian surfaces);
- uncovered horse corrals that are maintained to avoid soil compaction;
- fire lanes that consist of interlocking pavers, are designed in accordance with Section 1.6.7 of this manual, are restricted from routine vehicle access, and are approved by the Austin Fire Department; **and**
- an access ramp for an existing single-family and two-family residential unit if:

-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);

-The building official determines that the ramp will not pose a threat to public health and safety;

-The ramp 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;

-The ramp has a hand railing, but does not have a roof or walls;

-The ramp is located in a manner that utilizes existing impervious cover to the greatest extent possible if impervious cover on the property is at or above the maximum amount of impervious cover allowed by this Title; or if placement of the ramp would result in the property exceeding the maximum amount of impervious cover allowed by this Title;

- a subsurface portion of a parking structure if the director of the Watershed Protection ~~department~~ Department determines that:
 - the subsurface portion of the structure is located within an urban or suburban watershed; is below the grade of the land that existed before construction of the structure; is covered by soil with a minimum depth of two feet and an average depth of not less than four feet; and has an area not greater than fifteen percent of the site;
 - the structure is not associated with a use regulated by Section 1.2.2 of Subchapter F of Chapter 25-2 (Residential Design and Compatibility Standards);
 - 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

- 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; and:

- for residential building permits, no more than 2 projecting feet of structures raised over the ground such as eaves, overhangs, cantilevered portions of structures, balconies, awnings, and bay windows. (Note: This exemption does not apply to site plans or the calculation of the drainage charge.)

D. For calculation purposes, Section 25-8-64 (Impervious Cover Assumptions) of the Land Development Code states that impervious cover for single-family or duplex lots shall be assumed as follows:

Lot Area	Impervious Cover
Greater than three (3) acres	10,000 square feet
Greater than one (1) acre - three (3) acres	7,000 square feet
Greater than 15,000 square feet - one (1) acre	5,000 square feet
Greater than 10,000 square feet - 15,000 square feet	3,500 square feet
10,000 square feet or less	2,500 square feet

- E. An application for a commercial development must demonstrate that once fully constructed, the development will not exceed applicable maximum impervious cover limitations. For a commercial subdivision with an internal roadway, the platted lots will need to account for the roadway if the roadway exceeds the impervious cover limits within the right-of-way.
- F. Impervious cover limitations do not apply to an application for a roadway improvement with less than 8,000 square feet of new impervious cover. Roadway improvements are limited to intersections upgrades, low-water crossing upgrades, additions for bicycle lanes, and additions for mass transit stops.

Source: [Rule No. R161-14.21, 8-2-2014](#); Rule No. [R161-18.05](#), 6-12-2018.

1.8.2 - Construction on Slopes

- A. No roadways or driveways shall be constructed on slopes in excess of 15 percent except where necessary to provide primary access to either a minimum of two (2) contiguous acres with a gradient of 15 percent or less or building sites for at least five (5) residential units. Cuts and fills on roadways or driveways are to be restored as described herein.

- B. No building or parking areas shall be constructed on slopes in excess of 15 percent, provided, however, that buildings and parking structures may be located on slopes of 15 to 25 percent when the following criteria are met:
1. Impervious cover on 15-25 percent slopes shall not exceed ten (10) percent of the total area of 15-25 percent slope.
 2. Structures located **upslope upgradient** of slopes between 15-25 percent and not using terracing techniques shall be constructed utilizing pier and beam techniques. Fill shall be placed to blend with the natural contour. No vertical walls shall extend beyond the lowest finished floor elevation, other than necessary to screen mechanical appurtenances and shall be stepped, if appropriate. Terraced fill and walls shall be a maximum 1:1 running grade limited to four (4) feet in height for each terrace. This section shall not apply to single family and duplex construction.
 3. Structures located **downslope downgradient** of slopes between 15-25 percent should be terraced and consolidated into the hillside. Structural excavation shall not exceed a maximum of eight (8) feet in depth, except by terracing. Areas of cut not hidden from view shall be effectively screened by additional landscaping.
 4. Hillside vegetation shall not be disturbed other than that necessary to locate the structure. All disturbed areas shall be restored with native vegetation. Adapted vegetation may be allowed to accommodate unique site conditions if approved the **Planning and Development Services Review** Department.
 5. If terraces are not provided, cuts and fills are to be restored to **no more than** 3:1 slopes and revegetated.
 6. In all cases, slopes generated by cut and fill shall be stable, giving full consideration to soil characteristics and erosion potential. Techniques to be used are to be specified with the final plat. Slope exceeding a 3:1 ratio, other than cuts which are determined to be stable, must be stabilized by permanent structural means (e.g., dry stack wall, terraces, exposed aggregate concrete walls, etc.) and approved by the Director.

C. Slope, contour, and grading plans shall utilize a 2-foot minimum contour delineation when showing proposed grading, erosion control, or determining slope categories.

Source: [Rule No. R161-14.21, 8-2-2014](#).