

**RULE NO.:** R161-21.26  
**POSTING DATE:** October 6, 2021

## **NOTICE OF PROPOSED RULE**

The Director of Watershed Protection Department proposes to adopt the following rule on or after November 8, 2021.

Comments on the proposed rule are requested from the public. Comments should be submitted to Kelly Strickler, at [kelly.strickler@austintexas.gov](mailto:kelly.strickler@austintexas.gov) or (512) 974-1845. To be considered, comments must be submitted before November 8, 2021, the 33rd 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 by contacting Kelly Stricker at [kelly.stricker@austintexas.gov](mailto:kelly.stricker@austintexas.gov) or (512) 974-1845.

## **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 8, 2021 (the 33rd day after the date of this notice) or not after December 15, 2021 (the 70th day after the date of this notice).

If a proposed rule is not adopted on or before December 15, 2021, it is automatically withdrawn and cannot be adopted without first posting a new notice of a proposed rule

## **TEXT OF PROPOSED RULE**

The text of the proposed rule, indicating changes from the current text, is attached to this notice. Additionally, a copy of the complete text of the proposed rule is available for public inspection and copying at the following location: Office of the City Clerk, 301 W. 2nd Street, Austin, Texas.

## **BRIEF EXPLANATION OF PROPOSED RULE**

R161-21.26: Modifies the Drainage Criteria Manual as follows:

- 1.2.0 - City of Austin Drainage Policy - Section 1.2.2 *General*. Clarifies existing language regarding the location criteria and 0.5 acre size criteria for eligibility to automatically participate in the Regional Stormwater Management Program.

- 8.2.0 - Regional Stormwater Management Program - Section 8.2.2(E) - Participation Payments. Clarifies definition of areas that may be excluded from the payment (floodplains, dedicated easements, etc.). Clarifies that these deductible areas will be finalized by City staff at the time of payment calculation based on supporting documentation provided with the RSMP application.

#### **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 design and construction of drainage facilities and improvements is established in Section 25-7-64 of the City Code.

#### **CERTIFICATION BY CITY ATTORNEY**

By signing this Notice of Proposed Rule (R161-21.26), 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.

#### **REVIEWED AND APPROVED**

  
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Jorge L. Morales, P.E., CFM, Director  
Watershed Protection Department

Date: 09/28/2021

  
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Anne L. Morgan  
City Attorney

Date: 10/4/2021

## Drainage Criteria Manual Section 1.2.2 - General

- A. Stormwater runoff peak flow rates for the two (2), ten (10), 25 and 100-year frequency storms shall not cause increased inundation of any building or roadway surface or create any additional adverse flooding impacts.
- B. Street curbs, gutters, inlets and storm drains shall be designed to intercept, contain and transport all runoff from the 25-year frequency storm.
- C. In addition to B. above, the public drainage system shall be designed to convey those flows from greater than 25-year frequency storm up to and including the 100-year frequency storm within defined public rights of way or drainage easements.
- D. Stormwater runoff peak flow rates shall not be increased at any point of discharge from a site for the two (2), ten (10), 25 and 100-year storm frequency events.
- E. Regulation of peak flows to allowable levels, as determined by the provisions of this policy, shall be achieved by storage on-site or off-site or by participation in an approved Regional Stormwater Management Program. The Stormwater Management Section of this manual provides a guide to acceptable methods, but does not limit the designer to the methods presented therein. Guidelines for participation in the Regional Stormwater Management Program are contained in the Stormwater Management Section of this manual.
- F. Developments that meet the following requirements are not subject to D. or E. above:
  - 1. Developments that are immediately adjacent to and discharge directly into Lake Travis, Lake Austin, Lady Bird Lake and the Colorado River, or
  - 2. Developments that are immediately adjacent to and discharge directly into Waller Creek below the Waller Creek Tunnel Inlet (downstream of 12th Street) and that are located in the Waller Creek Tax Increment Reinvestment Zone (TIRZ).
- G. Detention Alternatives. The City recognizes the need for small projects to have an alternative means of meeting storm water quantity mitigation (detention) requirements. Section 8.2.0 of the Drainage Criteria Manual defines the Regional Stormwater Management Program and describes the requirements for participation in the program. The City will allow small land developments within participating watersheds and City of Austin full purpose jurisdiction that meet the following requirements to automatically participate in the RSMP. This participation shall take the form of off-site improvements or payment-in-lieu of detention at the discretion of the Director of the Watershed Protection Department. Activity that meets all of the following requirements is not subject to D. above.
  - 1. Commercial, multi-family or mixed-use developments with a site development area ~~(limits of construction for redevelopment)~~ of 0.5 acres or less or a single-family residential subdivision of one acre or less that does not require a preliminary plan application;

2. The proposed impervious cover does not exceed the maximum allowed by a restrictive covenant, or plat note for the property, if applicable;
3. The activity does not propose impervious cover over and above current zoning maximums through application of the various infill options provided in neighborhood plans; and
4. Any increase in runoff from the site shall be discharged to an existing storm drainage system, right-of-way, or dedicated drainage easement. If this cannot be achieved, a licensed engineer must submit the following:
  - i. A signed and sealed drainage plan; and
  - ii. A signed, sealed and dated letter, addressed to the Director of the Watershed Protection Department, stating without qualification: "I certify that I have personally conducted a topographic review and field investigation of the existing and proposed flow patterns for stormwater runoff from the subject development to the main stem of (name of creek). At build-out conditions allowable by zoning or watershed impervious cover limit, the stormwater flows from the subject development will not cause any additional adverse impacts for storms of magnitude up through the 100-year event."

#### **Drainage Criteria Manual Section 8.2.2(E)**

- E. **Participation Payments.** Payment calculations are finalized at the time of RSMP application approval and issuance of formal agreement for owner signature. RSMP application reviews are completed during the site plan or subdivision review process and will not be approved out of cycle. To view the payment schedule and the present payment amounts for participation, please refer to the RSMP link on the Watershed Protection Department Programs page on the City of Austin's website, [www.austintexas.gov](http://www.austintexas.gov) . Any increase will be posted at least 30 days prior to enactment. The participation payments shall be based on the total site area of the development, less any dedicated floodplain easements, drainage easements containing the 100-year floodplain, dedicated greenbelts, undeveloped common areas, permanent retention or detention facilities, and other areas undevelopable under applicable City of Austin code. These areas may be deducted from the total site area to reduce the land cost area in the payment calculation. Deductible areas will be finalized by City staff at the time of payment calculation based on supporting documentation provided with the RSMP application.