

RULE NO.: R161-21.26

ADOPTION DATE: December 15, 2021

NOTICE OF RULE ADOPTION

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

The Director of the Watershed Protection Department has adopted the following rule. Notice of the proposed rule was posted on October 6, 2021. Public comment on the proposed rule was solicited in the October 6, 2021 notice. This notice is issued under Chapter 1-2 of the City Code. The adoption of a rule may be appealed to the City Manager in accordance with Section 1-2-10 of the City Code as explained below.

A copy of the complete text of the adopted rule is attached to this notice.

EFFECTIVE DATE OF ADOPTED RULE

A rule adopted by this notice is effective on December 15, 2021.

TEXT OF ADOPTED 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.

COMMENTS AND CHANGES FROM PROPOSED RULE

No comments were received, and no changes were made.

AUTHORITY FOR ADOPTION OF 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.

APPEAL OF ADOPTED RULE TO CITY MANAGER

A person may appeal the adoption of a rule to the City Manager. **AN APPEAL MUST BE FILED WITH THE CITY CLERK NOT LATER THAN THE 30TH DAY AFTER THE DATE THIS NOTICE OF RULE ADOPTION IS POSTED. THE POSTING DATE IS NOTED ON THE FIRST PAGE OF THIS NOTICE.** If the 30th day is a Saturday, Sunday, or official city holiday, an appeal may be filed on the next day which is not a Saturday, Sunday, or official city holiday.

An adopted rule may be appealed by filing a written statement with the City Clerk. A person who appeals a rule must (1) provide the person's name, mailing address, and telephone number; (2) identify the rule being appealed; and (3) include a statement of specific reasons why the rule should be modified or withdrawn.

Notice that an appeal was filed and will be posted by the city clerk. A copy of the appeal will be provided to the City Council. An adopted rule will not be enforced pending the City Manager's decision. The City Manager may affirm, modify, or withdraw an adopted rule. If the City Manager does not act on an appeal on or before the 60th day after the date the notice of rule adoption is posted, the rule is withdrawn. Notice of the City Manager's decision on an appeal will be posted by the city clerk and provided to the City Council.

On or before the 16th day after the city clerk posts notice of the City Manager's decision, the City Manager may reconsider the decision on an appeal. Not later than the 31st day after giving written notice of an intent to reconsider, the City manager shall make a decision.

CERTIFICATION BY CITY ATTORNEY

By signing this Notice of Rule Adoption (R161-21.26), the City Attorney certifies that 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



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

Date: 12/1/2021



Anne L. Morgan
City Attorney

Date: 12/10/2021

This Notice of Rule Adoption was posted on the City website by the City Clerk. The date and time stamp are on the front of the notice.

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 . 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.