

ORDINANCE NO. 20221027-045

AN ORDINANCE AMENDING CITY CODE CHAPTERS 25-2, 25-5, AND 25-8 RELATING TO ENVIRONMENTAL, LANDSCAPE, AND SITE PLAN REQUIREMENTS.

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

PART 1. Subsection (F) of City Code Section 25-2-1007 (*Parking Lots*) is amended to read:

- (F) A landscaped area that is required by this section:
- (1) may consist of non-contiguous portions, and may be in the form of features commonly referred to as medians, peninsulas, and islands;
 - (2) must be evenly distributed throughout a parking lot, except that the distribution and location of landscaped area may accommodate existing trees or other natural features if the total area requirement is satisfied; ~~and~~
 - (3) may count toward compliance with Section 25-2-1003(A) (*General Requirements*); and
 - (4) must consider an edge-of-pavement treatment that allows overland flow of stormwater runoff across the landscape area except:
 - (a) perimeter landscape areas that are not required to drain to a stormwater control measure;
 - (b) impervious areas on which the land use or activity may generate highly contaminated runoff, as prescribed by the Environmental Criteria Manual; and
 - (c) sites located within the Edwards Aquifer recharge zone.

PART 2. City Code Section 25-2-1008 (*Irrigation Requirements*) is amended to read:

§ 25-2-1008 IRRIGATION REQUIREMENTS.

~~[(A)]~~ An area equal to at least 50% of the total required landscaped area on a project must:

- ~~(1)~~ be undisturbed natural area(s) or undisturbed existing trees with no potable irrigation; or
- ~~(2)~~ be irrigated by stormwater runoff conveyed from impervious surfaces on the site using one or more of the following methods:
 - ~~(a)~~ overland flow;
 - ~~(b)~~ storm drains;
 - ~~(c)~~ downspouts;
 - ~~(d)~~ rainwater harvesting;
 - ~~(e)~~ retention irrigation; or
 - ~~(f)~~ other methods of conveyance as prescribed by rule.

~~(B)~~ The drainage area used to irrigate under Subsection (A) must be calculated to provide sufficient water for the landscaped area, as prescribed by rule.

~~(C)~~ Unless the landscaped area under Subsection (A) is being designed as a water quality control under Section 25-8-211, the drainage area used to irrigate the landscaped area:

- ~~(1)~~ may not include impervious areas on which the land use or activities may generate highly contaminated runoff, as prescribed by rule; and
- ~~(2)~~ may not include impervious areas used for parking or driving of vehicles if located within the Edwards Aquifer Recharge Zone as defined in Section 25-8-2.]

(A)~~[(D)]~~ No permanent irrigation is required for all or a portion of a required landscaped area that consists of:

- (1) undisturbed natural area; or

- (2) undisturbed existing trees;

(B)~~(E)~~ [In addition to irrigation meeting the requirements of Subsection (A), supplemental] Supplemental irrigation using irrigation methods described in Subsection (C)~~(F)~~ is required:

- (1) for the first two growing seasons for all or a portion of a newly planted required landscaped area without permanent irrigation;
- (2) permanently for all newly planted trees in a required landscape area; and
- (3) as prescribed by rule for all newly planted required landscaping located in medians, islands, or peninsulas.

(C)~~(F)~~ Irrigation required under Subsection (B) [~~subsection (E)~~] may be provided only by one or more of the methods described below:

- (1) an automatic irrigation system;
- (2) a hose attachment, if:
 - (a) the hose attachment is within 100 feet of the landscaped area or plant; and
 - (b) there is not a road or parking pavement between the hose attachment and the landscaped area or plan; or
- (3) a temporary, above ground automatic irrigation system, if the system complies with the water conservation requirements in the Environmental Criteria Manual.

(D)~~(G)~~ An irrigation method must:

- (1) provide a moisture level adequate to sustain growth of the plant materials on a permanent basis;
- (2) unless fiscal security is provided to the City for the installation of the system, be operational at the time of the final landscape inspection; and
- (3) be maintained and kept operational.

(E)~~(H)~~ A site plan must show:

- (1) the drainage area(s) used to irrigate under Subsection (B)~~[(A)]~~, including notation of the land uses on impervious areas within the drainage area(s);
- (2) the nature and location of an irrigation system; and
- (3) that there is no disturbance to the critical root zone of an existing tree.

~~(F)~~~~(H)~~ The director may grant an administrative variance to the requirements in this section ~~[Section]~~. An applicant for a variance must demonstrate that:

- (1) strict compliance with this section ~~[Section]~~ is infeasible due to unique site conditions including but not limited to topography, size, shape, and location of existing features such as trees or previous development; and
- (2) the proposed irrigation plan is the minimal departure from the requirements of this section ~~[Section]~~.

PART 3. Subsection (B) of City Code Section 25-2-1179 (*Environmental Protection*) is repealed. The remaining subsections are renumbered accordingly.

PART 4. The definition of DIRECTOR in City Code Section 25-8-1 (*Definitions*) is amended to read:

- (7) DIRECTOR, when used without a qualifier, means the director of the Watershed Protection ~~[Planning and Development Review]~~ Department, or the director's designee.

PART 5. Subsections (A), (B), and (C) of City Code Section 25-8-2 (*Descriptions of Regulated Areas*) are amended to read:

- (A) This section describes the watersheds, aquifers, and other water quality protection zones that are regulated by this subchapter. A map of these areas is maintained by the Watershed Protection Department and made available for reference online and ~~[inspection]~~ at the offices of the Development Services ~~[Planning and Development Review]~~ Department.
- (B) The director ~~[of the Watershed Protection Department]~~ shall determine the boundaries of the areas described in Subsection (D).

- (C) The director [~~of the Watershed Protection Department~~] may require an applicant to verify the boundary of an area described in Subsection (D). For property within 1,500 feet of an Edwards Aquifer recharge zone boundary, the director [~~of the Watershed Protection Department~~] may require that an applicant provide a certified report from a geologist or hydrologist verifying the boundary location.

PART 6. City Code Section 25-8-25 (*Redevelopment Exception in Urban and Suburban Watersheds*) is amended to read:

§ 25-8-25 REDEVELOPMENT EXCEPTION IN URBAN AND SUBURBAN WATERSHEDS.

- (A) This section applies to property located in an urban or suburban watershed that has existing development if:
- (1) any development constructed without a permit after January 1, 1992, will be removed from the site and the area restored to pre-development conditions; [no unpermitted development occurred on the site after January 1, 1992,] and
 - (2) the applicant files a site plan application or concurrent subdivision and site plan applications and elects [the property owner files a site plan application and an election for the property] to be governed by this section.

~~[(B) The requirements of this subchapter do not apply to the subdivision of property if at the time of redevelopment under this section subdivision and site plan applications are filed concurrently.]~~

(B) ~~[(C)]~~ The requirements of this subchapter do not apply to the redevelopment of the property if the redevelopment:

- (1) does not increase the existing amount of impervious cover on the site;
- (2) removes existing impervious cover from within 50 feet of a classified waterway or 50 feet from the shoreline of a lake and revegetates the area as prescribed by the Environmental Criteria Manual;

~~(3)~~~~(2)~~ provides the level of water quality treatment prescribed by current regulations for the redeveloped area or an equivalent area on the site;

~~(3)~~ ~~does not generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property;~~

~~(4)~~ ~~is consistent with the neighborhood plan adopted by council, if any;~~

~~(4)~~~~(5)~~ does not increase non-compliance, if any, with Article 7, Division 1 (*Critical Water Quality Zone Restrictions*), Section 25-8-281 (*Critical Environmental Features*), or Section 25-8-282 (*Wetland Protection*);

~~(5)~~ complies with Article 3 (*Environmental Resource Inventory; Pollutant Attenuation Plan*) and all construction phase environmental standards in effect at the time of construction, including Article 5 (*Erosion and Sedimentation Control; Overland Flow*); and

~~(6)~~ does not place redevelopment within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.

~~[(D) The redevelopment must comply with Section 25-8-121 (*Environmental Resource Inventory Requirement*) and all construction phase environmental requirements in effect at the time of construction, including Chapter 25-8, Article 5 (*Erosion and Sedimentation Control; Overland Flow*).]~~

PART 7. Subsections (C) and (E) of City Code Section 25-8-26 (*Redevelopment Exception in the Barton Springs Zone*) are amended to read:

(C) In this section:

(1) STANDARD POND [~~SEDIMENTATION /FILTRATION POND~~] means water quality controls that comply with Section 25-8-213 (*Water Quality Control Standards*) or are approved under Section 25-8-151 (*Innovative Management Practices*); and

- (2) SOS POND means water quality controls that comply with all requirements of Section 25-8-213 (*Water Quality Control Standards*) and the pollutant removal requirements of Section 25-8-514(A) (*Pollution Prevention Required*).
- (E) The requirements of this subchapter do not apply to the redevelopment of property if the redevelopment meets all of the following conditions:
- (1) The redevelopment may not increase the existing amount of impervious cover on the site.
 - (2) The redevelopment may not increase non-compliance, if any, with Article 7, Division 1 (*Critical Water Quality Zone Restrictions*), Section 25-8-281 (*Critical Environmental Features*), Section 25-8-282 (*Wetland Protection*), or Section 25-8-482 (*Water Quality Transition Zone*).
 - (3) The redevelopment must comply with Section 25-8-121 (*Environmental Resource Inventory Requirement*) and all construction phase environmental requirements in effect at the time of construction, including Chapter 25-8, Article 5 (*Erosion and Sedimentation Control; Overland Flow*) and Section 25-8-234 (*Fiscal Security in the Barton Springs Zone*).
 - (4) The water quality controls on the redevelopment site must provide a level of water quality treatment that is equal to or greater than that which was previously provided.
 - (5) For a commercial or multifamily redevelopment, the owner or operator must obtain a permit under Section 25-8-233 (*Barton Springs Zone Operating Permit*) for both standard [~~sedimentation/filtration~~] ponds and SOS ponds.
 - (6) For a site with more than 40 percent net site area impervious cover, the redevelopment must have:
 - (a) standard [~~sedimentation/filtration~~] ponds for the entire site; or

- (b) SOS ponds for a portion of the site, and standard ~~[sedimentation/filtration]~~ ponds for the remainder of the redeveloped site.
- (7) For a site with 40 percent or less net site area impervious cover, the redevelopment must have SOS ponds for the entire site.
- (8) The property owner must mitigate the effects of the redevelopment, if required by and in accordance with Subsection (H).
- (9) Redevelopment may not be located within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.

PART 8. City Code Section 25-8-27 (*Redevelopment Exception in the Water Supply Rural and Water Supply Suburban Watersheds*) is amended to read:

§ 25-8-27 REDEVELOPMENT EXCEPTION IN THE WATER SUPPLY RURAL AND WATER SUPPLY SUBURBAN WATERSHEDS.

- (A) This section applies to property located in a water supply rural or water supply suburban watershed that has existing commercial development or existing residential development with greater than two dwelling units per lot if:
 - (1) any development constructed without a permit after January 1, 1992, will be removed from the site and the area restored to pre-development conditions; [no unpermitted development occurred on the site after January 1, 1992,] and
 - (2) the applicant files a site plan application or concurrent subdivision and site plan applications and elects [the property owner files a site plan application and an election for the property] to be governed by this section.
- (B) In this section, STANDARD ~~[SEDIMENTATION/FILTRATION]~~ POND means water quality controls that comply with Section 25-8-213 (*Water Quality Control Standards*) or are approved under Section 25-8-151 (*Innovative Management Practices*).

~~[(C)]~~ The requirements of this subchapter do not apply to the subdivision of property if at the time of redevelopment under this section subdivision and site plan applications are filed concurrently.]

(C)~~(D)~~ The requirements of this subchapter do not apply to the redevelopment of property if the redevelopment meets all of the following conditions:

- (1) The redevelopment may not increase the existing amount of impervious cover on the site.
- (2) The redevelopment may not increase non-compliance, if any, with Article 7, Division 1 (*Critical Water Quality Zone Restrictions*), Section 25-8-281 (*Critical Environmental Features*), Section 25-8-282 (*Wetland Protection*), Section 25-8-422 (*Water Quality Transition Zone*), or Section 25-8-452 (*Water Quality Transition Zone*).
- (3) The redevelopment must remove any existing impervious cover from within 50 feet of the centerline of a classified waterway or 50 feet from the shoreline of a lake, unless necessary for allowable shoreline access, boat dock, or shoreline modification, and revegetate the area as prescribed in the Environmental Criteria Manual.
- (4)~~(3)~~ The redevelopment must comply with Article 3 (*Environmental Resource Inventory; Pollutant Attenuation Plan*) ~~[Section 25-8-121 (*Environmental Resource Inventory Requirement*)]~~ and all construction phase environmental requirements in effect at the time of construction, including Chapter 25-8, Article 5 (*Erosion and Sedimentation Control; Overland Flow*).
- (5)~~(4)~~ The water quality controls for the redeveloped areas or an equivalent area on the site must provide a level of water quality treatment that is equal to or greater than that which was previously provided. At a minimum, the site must provide standard ~~[sedimentation/filtration]~~ ponds for the redeveloped area or an equivalent area on the site.

~~(6)~~~~(5)~~ The applicant ~~[property owner]~~ must mitigate the effects of the redevelopment, if required by and in accordance with Subsection ~~(D)~~~~(G)~~.

~~(7)~~~~(6)~~ Redevelopment may not be located within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.

~~[(E)]~~ City Council approval of a redevelopment in accordance with Subsection ~~(F)~~ is required if the redevelopment:

- ~~(1)~~ — includes more than 25 additional dwelling units;
- ~~(2)~~ — is located outside the City's zoning jurisdiction;
- ~~(3)~~ — is proposed on property with an existing industrial use;
- ~~(4)~~ — is inconsistent with a neighborhood plan; or
- ~~(5)~~ — will generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property.

~~(F)~~ City Council shall consider the following factors in determining whether to approve a proposed redevelopment:

- ~~(1)~~ — benefits of the redevelopment to the community;
- ~~(2)~~ — whether the proposed mitigation or manner of development offsets the potential environmental impact of the redevelopment;
- ~~(3)~~ — the effects of off-site infrastructure requirements of the redevelopment; and
- ~~(4)~~ — compatibility with the City's comprehensive plan.]

~~(D)~~~~(G)~~ Redevelopment of property under this section requires the purchase or restriction of mitigation land.

- (1) The combined impervious cover of the mitigation land and the portion of the redevelopment treated by sedimentation/filtration ponds may not exceed 20 percent of gross site area if in a water

supply rural watershed or 40 percent of gross site area if in a water supply suburban watershed.

- (2) The mitigation requirement may be satisfied by:
 - (a) paying into the Water Supply Mitigation Fund a nonrefundable amount established by ordinance;
 - (b) transferring to the City in accordance with Paragraph (3) mitigation land approved by the director [~~of the Watershed Protection Department~~] within a water supply rural or water supply suburban watershed, either inside or outside the City's jurisdiction;
 - (c) placing restrictions in accordance with Paragraph (3) on mitigation land approved by the director [~~of the Watershed Protection Department~~] within a water supply rural or water supply suburban watershed, either inside or outside the City's jurisdiction; or
 - (d) a combination of the mitigation methods described in Subparagraphs (a) - (c), if approved by the director [~~of the Watershed Protection Department~~].
- (3) An applicant [~~A person~~] redeveloping under this section shall pay all costs of restricting the mitigation land or transferring the mitigation land to the City, including the costs of:
 - (a) an environmental site assessment without any recommendations for further clean-up, certified to the City not earlier than the 120th day before the closing date transferring land to the City;
 - (b) a category 1(a) land title survey, certified to the City and the title company not earlier than the 120th day before the closing date transferring land to the City;
 - (c) a title commitment with copies of all Schedule B and C documents, and an owner's title policy;

- (d) a fee simple deed, or, for a restriction, a restrictive covenant approved as to form by the City Attorney;
 - (e) taxes prorated to the closing date;
 - (f) recording fees; and
 - (g) charges or fees collected by the title company.
- (H) The Watershed Protection Department shall adopt rules to identify criteria ~~[for director approval]~~ under this section to ensure that the proposed mitigation, manner of development, and water quality controls offset the potential environmental impact of the redevelopment.

PART 9. City Code Section 25-8-42 (*Administrative Variances*) is amended to read:

§ 25-8-42 ADMINISTRATIVE VARIANCES.

- (A) A variance under this section may not vary the requirements of Article 13 (*Save Our Springs Initiative*) ~~[and may not be granted for development of a property if any portion of the property abuts or is within 500 feet of the shoreline of Lake Austin, measured horizontally].~~
- (B) The director ~~[of the Watershed Protection Department]~~ may grant a variance from a requirement of:
- (1) Subsection 25-8-213(C) (*Water Quality Control Standards*);
 - ~~(2)~~~~(4)~~ Section 25-8-261 (*Critical Water Quality Zone Development*), only if:
 - (a) necessary to protect public health and safety, or if the type of development requiring the variance directly contributes to ~~[it would provide]~~ a significant, demonstrable environmental benefit, as determined by a functional assessment of floodplain health as prescribed by the Environmental Criteria Manual; ~~[5]~~

- (b) necessary to allow an athletic field in existence on October 28, 2013, to be maintained, improved, or replaced; [5]
- (c) necessary to allow an athletic field to be located in an area not otherwise allowed under Subsection [Section] 25-8-261(B)(5); [5-~~or~~]
- (d) necessary to allow a hard surfaced trail to be located in an area not otherwise allowed under Subsection [Section] 25-8-261(B)(3);
- (e) necessary to allow the specified green stormwater infrastructure to be located in an area not otherwise allowed under Subsection 25-8-261(H); or
- (f) except in the Barton Springs Zone, necessary to allow a private driveway or private street to cross a critical water quality zone if the crossing is necessary to provide primary access to the right-of-way or the crossing is required to comply with public health and safety requirements.

(3)[(2)] Section 25-8-261 (*Critical Water Quality Zone Development*), for development within an urban watershed, only if the proposed development:

- (a) is located not less than 25 feet from the centerline of a waterway;[5]
- (b) is located outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual;[5]
- (c) does not increase non-compliance, if any, with Article 7, Division 1 (*Critical Water Quality Zone Restrictions*), Section 25-8-281 (*Critical Environmental Features*) or Section 25-8-282 (*Wetland Protection*);[5] and
- (d) restores native vegetation and soils if development is removed from the Critical Water Quality Zone;

- (4)[(3)] Subsection 25-8-262(B) (*Critical Water Quality Zone Mobility [Street] Crossings*), only outside the Barton Springs Zone;
- (5)[(4)] Section 25-8-281 (*Critical Environmental Features*);
- (6)[(5)] Section 25-8-322 (*Clearing for a Roadway*);
- (7)[(6)] Section 25-8-341 (*Cut Requirements*) or Section 25-8-342 (*Fill Requirements*), for a cut or fill of not more than eight feet:
- (a) in the desired development zone; or[~~and~~];
 - (b) for a public primary or secondary educational facility[; ~~within the desired development zone or the drinking water protection zone~~];
- (8)[(7)] Subsection 25-8-343(A) (*Spoil Disposal*);
- (9)[(8)] Section 25-8-365 (*Interbasin Diversion*); or
- (10)[(9)] Subsection 25-8-392(B)(6) (*Uplands Zone*), Subsection 25-8-392(C)(6) (*Uplands Zone*), Subsection 25-8-423(D) (*Uplands Zone*), or Subsection 25-8-453(E) (*Uplands Zone*).
- (C) It is the applicant's burden to establish that the findings described in this section [~~Section~~] have been met.
- (D) The director [~~of the Watershed Protection Department~~] may grant a variance described in Subsection (B) only after determining that development in accordance with the variance meets the objective of the requirement for which the variance is requested and:
- (1) for property in the Barton Springs Zone, the variance will result in water quality that is at least equal to the water quality achievable without the variance;
 - (2) for a variance from Subsection 25-8-213(C), that the proposed water quality control is necessitated by unique site conditions, excluding any potential loss of impervious cover entitlements resulting from full compliance;

(3) for a variance from Section 25-8-261, that the development is necessary to allow a private driveway or private street to cross a critical water quality zone; The applicant must also demonstrate compliance with the following:

- (a) The crossing must span the active channel or use open bottom culverts as determined by the director.
- (b) In suburban watersheds, critical water quality zone buffer averaging must be applied to the extent feasible in order to minimize the area of the private driveway within the critical water quality zone impacted by the crossing.
- (c) The location of the crossing must minimize impacts to critical environmental features, protected and heritage trees, and slopes greater than 15%, and must minimize the amount of cut or fill necessary for construction.
- (d) The construction is not located in the Barton Springs Zone.

(4)[(2)] for a variance from Subsection [Section] 25-8-261(B)(5), that the proposed work on or placement of the athletic field will have no adverse environmental impacts;

(5) for a variance from Subsection 25-8-261(H), that the green stormwater infrastructure is:

- (a) not required for regulatory compliance with 25-8-211 (*Water Quality Control Requirement*);
- (b) designed to capture runoff from existing, untreated impervious cover; and
- (c) proposed in a location that is the minimum necessary departure from the code requirement;

(6)[(3)] for a variance from Section 25-8-281, that the proposed measures preserve all characteristics of the critical environmental feature;

(7)[(4)] for a variance from Section 25-8-341 or Section 25-8-342, the cut or fill is not located on a slope with a gradient of

more than 15 percent or within 100 feet of a classified waterway;

(8)[(5)] for a variance from Subsection [Section] 25-8-343(A), use of the spoil provides a necessary public benefit. Necessary public benefits include:

- (a) roadways;
- (b) stormwater detention facilities;
- (c) public or private park sites; and
- (d) building sites that comply with Section 25-8-341 (*Cut Requirements*), Section 25-8-342 (*Fill Requirements*), and Chapter 25-7 (*Drainage*); [and]

(9)[(6)] for a variance from Section 25-8-365, there are no adverse environmental or drainage impacts; or

(10)[(7)] for a variance from Subsection 25-8-392(B)(6), Subsection 25-8-392(C)(6), Subsection 25-8-423(D), or Subsection 25-8-453(E), the variance:

- (a) is the minimum deviation needed to provide necessary improvements for a public mobility project in the right-of-way; and
- (b) does not create significant adverse environmental impacts.

(E) The [~~Watershed Protection Department~~] director shall prepare written findings to support the grant or denial of a variance request under this section.

PART 10. Subsection (A) of City Code Section 25-8-62 (*Net Site Area*) is amended to read:

- (A) Net site area includes only the portions of a site that lie in an uplands zone and have not been designated for surface or subsurface wastewater irrigation.

PART 11. Subsection (C) of City Code Section 25-8-63 (*Impervious Cover Calculations*) is amended to read:

(C) Impervious cover calculations exclude:

- (1) sidewalks in a public right-of-way or public easement;
- (2) multi-use trails open to the public and located on public land or in a public easement;
- (3) water quality controls, excluding subsurface water quality controls;
- (4) detention basins, excluding subsurface detention basins;
- (5) ground level rainwater harvesting cisterns, excluding subsurface cisterns;
- (6)[~~(5)~~] drainage swales and conveyances;
- (7)[~~(6)~~] the water surface area of ground level pools, fountains, and ponds;
- (8)[~~(7)~~] areas with gravel placed over pervious surfaces that are used only for landscaping or by pedestrians and are not constructed with compacted base;
- (9)[~~(8)~~] porous pavement designed in accordance with the Environmental Criteria Manual, limited to only pedestrian walkways and multi-use trails, and located outside the Edwards Aquifer Recharge Zone;
- (10)[~~(9)~~] fire lanes designed as prescribed by the Environmental Criteria Manual, that consist of interlocking pavers, and are restricted from routine vehicle access;
- (11)[~~(10)~~] an access ramp for an existing single-family and duplex residential unit if:
 - (a) a person with a disability requires access to a dwelling entrance that meets the requirements of the Residential Code, Section R320.6 (*Visitable dwelling entrance*);

- (b) the building official determines that the ramp will not pose a threat to public health and safety;
 - (c) the ramp:
 - (i) 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; and
 - (ii) may have a hand railing, but may not have a roof or walls; and
 - (d) the ramp is located in a manner that utilizes existing impervious cover to the greatest extent possible if:
 - (i) impervious cover on the property is at or above the maximum amount of impervious cover allowed by this title; or
 - (ii) if placement of the ramp would result in the property exceeding the maximum amount of impervious cover allowed by this title; and
- (12)[~~(11)~~] a subsurface portion of a parking structure if the director [~~of the Watershed Protection Department~~] determines that:
- (a) the subsurface portion of the structure:
 - (i) is located within an urban or suburban watershed;
 - (ii) is below the grade of the land that existed before construction of the structure;
 - (iii) is covered by soil with a minimum depth of two feet and an average depth of not less than four feet; and
 - (iv) has an area not greater than fifteen percent of the site;
 - (b) 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*);

- (c) 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~~
 - (d) 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
- (13) for purposes of residential building permit review only, no more than two feet of elevated, projecting elements such as eaves, overhangs, cantilevered portions of structures, balconies, awnings, and bay windows. This exemption does not apply to site plans or the calculation of the drainage charge under Section 15-2-5 (Impervious Cover Calculation).

PART 12. City Code Section 25-8-64 (*Impervious Cover Assumptions*) is amended to add a new Subsection (E) to read:

- (E) The applicant must demonstrate that all proposed one- and two-unit residential lots have usable lot area that can reasonably accommodate the assumed square footage of impervious cover established by Subsection (B). The usable lot area must account for all applicable waterway setbacks, floodplains, steep slopes, critical environmental features, protected trees, on-site sewage facilities, and other relevant code restrictions.

PART 13. Subsections (A), (B), and (C) of City Code Section 25-8-92 (*Critical Water Quality Zones Established*) are amended to read:

- (A) In the water supply rural watersheds, water supply suburban watersheds, and Barton Springs Zone, a critical water quality zone is established along each waterway classified under Section 25-8-91 (*Waterway Classifications*).
- (1) The boundaries of a critical water quality zone coincide with the boundaries of the 100-year flood plain as determined under Section 25-7-6 (*Determination of the 100-Year Floodplain*), except:

- (a) for a minor waterway, the boundaries of the critical water quality zone are located not less than 50 feet and not more than 100 feet from the centerline of the waterway;
 - (b) for an intermediate waterway, the boundaries of the critical water quality zone are located not less than 100 feet and not more than 200 feet from the centerline of the waterway;
 - (c) for a major waterway, the boundaries of the critical water quality zone are located not less than 200 feet and not more than 400 feet from the centerline of the waterway; and
 - (d) for the main channel of Barton Creek, the boundaries of the critical water quality zone are located 400 feet from the centerline of the creek.
- (2) Notwithstanding the provisions of Subsections (A)(1)(a), (b), and (c), a critical water quality zone does not apply to a drainage ditch located parallel and adjacent to [previously modified drainage feature serving] a railroad or public roadway right-of-way if the ditch: [that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition, as prescribed in the Environmental Criteria Manual.]
- (a) was designed and constructed primarily to serve the adjacent railroad or public roadway;
 - (b) is not a segment or modification of a natural waterway;
 - (c) does not possess any natural and traditional character;
and
 - (d) cannot reasonably be restored to a natural condition due to existing site constraints.
- (B) In the suburban watersheds, a critical water quality zone is established along each waterway classified under Section 25-8-91 (*Waterway Classifications*).

- (1) For ~~[for]~~ a minor waterway, the boundaries of the critical water quality zone are located 100 feet from the centerline of the waterway.^[;]
- (2) For ~~[for]~~ an intermediate waterway, the boundaries of the critical water quality zone are located 200 feet from the centerline of the waterway.^[;]
- (3) For ~~[for]~~ a major waterway, the boundaries of the critical water quality zone are located 300 feet from the centerline of the waterway.^[;]
- (4) The ~~[the]~~ critical water quality zone boundaries may be reduced to not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, 150 feet from the centerline of a major waterway if the overall surface area of the critical water quality zone is the same or greater than the surface area that would be provided without the reduction, as prescribed in the Environmental Criteria Manual.^[; and]
- (5) Notwithstanding ~~[notwithstanding]~~ the provisions of Subsections (B)(1), (2), and (3), a critical water quality zone does not apply to a drainage ditch located parallel and adjacent to ~~[previously modified drainage feature serving]~~ a railroad or public roadway right-of-way if the ditch: ~~[that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition.]~~
 - (a) was designed and constructed primarily to serve the adjacent railroad or public roadway;
 - (b) is not a segment or modification of a natural waterway;
 - (c) does not possess any natural and traditional character;
and
 - (d) cannot reasonably be restored to a natural condition due to existing site constraints.

- (C) In an urban watershed, a critical water quality zone is established along each waterway with a drainage area of at least 64 acres. This does not apply in the area bounded by IH-35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.
- (1) The boundaries of the critical water quality zone coincide with the boundaries of the 100-year floodplain as determined under Section 25-7-6 (*Determination of the 100-Year Floodplain*), provided that the boundary is not less than 50 feet and not more than 400 feet from the centerline of the waterway.
- (2) Notwithstanding the provisions of Subsection (C)(1), a critical water quality zone does not apply to a drainage ditch located parallel and adjacent to [previously modified drainage feature serving] a railroad or public roadway right-of-way if the ditch: ~~[that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition.]~~
- (a) was designed and constructed primarily to serve the adjacent railroad or public roadway;
- (b) is not a segment or modification of a natural waterway;
- (c) does not possess any natural and traditional character;
and
- (d) cannot reasonably be restored to a natural condition due to existing site constraints.

PART 14. Subsection (A) of City Code Section 25-8-121 (*Environmental Resource Inventory Requirement*) is amended to read:

- (A) An applicant shall file an environmental resource inventory with the director for proposed development located on a tract:
- (1) within the Edwards Aquifer recharge ~~[or contributing]~~ zone;
- ~~[(2)—within the Drinking Water Protection Zone;~~
- ~~(3)—containing a water quality transition zone;]~~
- ~~(2) [(4)]~~ containing a critical water quality zone; ~~[or]~~

(3)~~(5)~~ with a gradient of more than 15 percent; or

(4) containing, or within 150 feet of, a potential or verified wetland feature as identified in a map maintained by the Watershed Protection Department and made available for reference online and at the offices of the Development Services Department.

PART 15. Subsection (A) of City Code Section 25-8-182 (*Development Completion*) is amended to read:

(A) Development is not completed until:

- (1) permanent revegetation is established; and
- (2) the director [~~Planning and Development Review Department~~]:
 - (a) receives the engineer's concurrence letter; and
 - (b) certifies installation of the vegetation for acceptance.

PART 16. Subsections (B) and (C) of City Code Section 25-8-184 (*Additional Erosion and Sedimentation Control Requirements in the Barton Springs Zone*) are amended to read:

- (B) A temporary erosion and sedimentation control plan and a water quality plan certified by a registered professional engineer and approved by the director [~~Planning and Development Review Department~~] is required.
- (1) The plans must describe the temporary structural controls, site management practices, or other approved methods that will be used to control off-site sedimentation until permanent revegetation is certified as completed under Section 25-8-182 (*Development Completion*).
 - (2) The temporary erosion control plan must be phased to be effective at all stages of construction. Each temporary erosion control method must be adjusted, maintained, and repaired as necessary.

- (C) The director [~~Planning and Development Review Department~~] may require a modification of the temporary erosion control plan after determining that the plan does not adequately control off-site sedimentation from the development. Approval by the director [~~Planning and Development Review Department~~] and the engineer who certified the plan is required for a major modification of the plan.

PART 17. Subsection (A) of City Code Section 25-8-185 (*Overland Flow*) is amended to read:

- (A) Drainage patterns must be designed to:
- (1) prevent erosion;
 - (2) maintain infiltration and recharge of local seeps, ~~[and]~~ springs, and waterways;
 - (3) attenuate the harm of contaminants collected and transported by stormwater; ~~[and]~~
 - (4) where feasible ~~[possible]~~, maintain and restore overland sheet flow, maintain natural drainage features and patterns, and disperse runoff back to sheet flow; and
 - (5) where feasible, direct stormwater to landscape areas including islands, medians, peninsulas, and other similar areas.
Exceptions to this requirement include:
 - (a) perimeter landscape areas that are not required to drain to a stormwater control measure;
 - (b) impervious areas on which the land use or activity may generate highly contaminated runoff, as prescribed by the Environmental Criteria Manual; and
 - (c) impervious areas used for parking or driving of vehicles if located within the Edwards Aquifer recharge zone.

PART 18. City Code Section 25-8-213 (*Water Quality Control Standards*) is amended to read:

§ 25-8-213 WATER QUALITY CONTROL STANDARDS.

- (A) A water quality control must be designed in accordance with the Environmental Criteria Manual.
- (1) The control must provide at least the treatment level of a sedimentation/filtration system under the Environmental Criteria Manual.
 - (2) An impervious liner is required for structural water quality controls over the Edwards Aquifer recharge zone ~~[in an area where there is surface runoff to groundwater conductivity]~~. If a liner is required and there are multiple controls ~~[are located]~~ in series, liners are only required for the first control in the series ~~[not required for the second or later in the series following sedimentation, extended detention, or sedimentation/filtration]~~.
 - (3) The control must be accessible for maintenance and inspection as prescribed in the Environmental Criteria Manual.
- (B) A water quality control must capture and treat the water draining to the control from the contributing area. The required capture volume is:
- (1) the first one-half inch of runoff; and
 - (2) for each 10 percent increase in impervious cover over 20 percent of gross site area, an additional one-tenth of an inch of runoff.
- (C) The required water quality treatment must be provided using green stormwater control measures, as prescribed in the Environmental Criteria Manual.
- (D) Notwithstanding Subsection (C), all or part of the required water quality treatment may be provided using other water quality controls for:
- (1) areas with land uses or activities that may generate highly contaminated runoff, as described in the Environmental Criteria Manual;

- (2) a project that provides water quality treatment for currently untreated, developed off-site areas of at least ten acres in size;
or
- (3) sites with impervious cover of greater than 90 percent gross site area.

(E)~~(C)~~ The location of a water quality control:

- (1) must avoid recharge features to the greatest extent possible;
- (2) must be shown on the slope map, preliminary plan, site plan, or subdivision construction plan, as applicable; and
- (3) in a water supply rural watershed, may not be in the 40 percent buffer zone, unless the control disturbs less than 50% of the buffer, and is located to maximize overland flow and recharge in the undisturbed remainder of the 40 percent buffer zone.

(F)~~(D)~~ This subsection provides additional requirements for the Barton Springs Zone.

- (1) Approval by the Watershed Protection Department is required for a proposed water quality control that is not described in the Environmental Criteria Manual. The applicant must substantiate the pollutant removal efficiency of the proposed control with published literature or a verifiable engineering study.
- (2) Water quality controls must be placed in sequence if necessary to remove the required amount of pollutant. The sequence of controls must be:
 - (a) based on the Environmental Criteria Manual or generally accepted engineering principles; and
 - (b) designed to minimize maintenance requirements.

PART 19. Subsection (A) of City Code Section 25-8-214 (*Optional Payment Instead of Structural Controls in Urban Watersheds*) is amended to read as follows:

- (A) The director [~~of the Watershed Protection Department~~] shall identify and prioritize water quality control facilities for the urban watersheds

in an Urban Watersheds Structural Control Plan. The Environmental Commission ~~[Board]~~ shall review the plan annually ~~[in January of each year]~~.

PART 20. Subsection (B) of City Code Section 25-8-232 (*Dedicated Fund*) is amended to read:

- (B) An applicant shall pay the required fee into the fund:
 - (1) for development that does not require a site plan, when the applicant posts fiscal security for the subdivision or requests that the director of the Development Services Department record the subdivision plat, whichever occurs first; or
 - (2) for development that requires a site plan, when the site plan is approved.

PART 21. City Code Section 25-8-233 (*Barton Springs Zone Operating Permit*) is amended to read:

§ 25-8-233 BARTON SPRINGS ZONE OPERATING PERMIT.

- (A) In the Barton Springs Zone, the owner or operator of a commercial or multifamily development is required to obtain an annual operating permit for the required water quality controls.
- (B) To obtain an annual operating permit, an applicant must:
 - (1) provide the director ~~[Planning and Development Review Department]~~ with:
 - (a) a maintenance plan; and
 - (b) the information necessary to verify that the water quality controls are in proper operating condition; and
 - (2) pay the required, nonrefundable fee.
- (C) The director ~~[Planning and Development Review Department]~~ may verify that a water quality control is in proper operating condition by either inspecting the water quality control or accepting a report from a registered engineer.

- (D) The director [~~Planning and Development Review Department~~] shall issue an operating permit after determining that:
- (1) the applicant has complied with the requirements of Subsection (B); and
 - (2) the water quality controls are in proper operating condition.
- (E) The director [~~Planning and Development Review Department~~] shall transfer an operating permit to a new owner or operator if, not later than 30 days after a change in ownership or operation, the new owner or operator:
- (1) signs the operating permit;
 - (2) accepts responsibility for the water quality controls; and
 - (3) documents the transfer on a form provided by the director [~~Planning and Development Review Department~~].

PART 22. City Code Chapter 25-8, Article 7, Division 1 (*Critical Water Quality Zone Restrictions*) is renamed to read:

Division 1. Waterway and Floodplain Protection.

PART 23. Subsections (B), (C), (D), (F), and (G) of City Code Section 25-8-261 (*Critical Water Quality Zone Development*) are amended to read:

- (B) Open space is permitted in a critical water quality zone if a program of fertilizer, pesticide, and herbicide use is approved by the Watershed Protection Department, subject to the conditions in this Subsection.
- (1) In a water supply rural watershed, water supply suburban, or the Barton Springs Zone, open space is limited to sustainable urban agriculture or a community garden if the requirements in subsection (B)(4) are met, multi-use trails, picnic facilities, and outdoor facilities, excluding stables, corrals for animals and athletic fields.
 - (2) A [~~master-planned~~] park with a council-adopted plan [~~that is approved by the council~~] may include recreational

development other than that described in Subsection (B)(1).

- (3) A hard surfaced trail may cross the critical water quality zone pursuant to Section 25-8-262 (*Critical Water Quality Zone Mobility [Street] Crossings*). A hard surfaced trail that does not cross the critical water quality zone may be located within the critical water quality zone only if:
 - (a) designed in accordance with the Environmental Criteria Manual;
 - (b) located outside the erosion hazard zone unless protective works are provided as prescribed in the Drainage Criteria Manual;
 - (c) limited to 12 feet in width plus one-foot compacted sub-grade shoulders, unless a wider trail is designated in a Council-adopted plan;
 - (d) located not less than 25 feet from the centerline of a waterway if within an urban watershed;
 - (e) located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway if within a watershed other than an urban watershed;
 - (f) located not less than 50 feet from the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Walter E. Long, as defined in Section 25-8-92; and
 - (g) located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam.
- (4) Open space may include sustainable urban agriculture or a community garden only if:

- (a) in an urban watershed and located not less than 25 feet from the centerline of a waterway, or in a watershed other than an urban watershed and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway;
 - (b) located not less than 50 feet from the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Walter E. Long, as defined in Section 25-8-92;
 - (c) located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam;
 - (d) designed in accordance with the Environmental Criteria Manual; and
 - (e) limited to garden plots and paths, with no storage facilities or other structures over 500 square feet.
- (5) In a suburban or urban watershed, open space may include an athletic field only if:
- (a) in an urban watershed and located not less than 25 feet from the centerline of a waterway, or in a suburban watershed and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway;
 - (b) located not less than 50 feet from the shoreline of Lady Bird Lake and Lake Walter E. Long, as defined in Section 25-8-92;
 - (c) located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam; and

- (d) the owner of the athletic field submits to the Watershed Protection Department a maintenance plan to keep the athletic field well vegetated and minimize compaction, as prescribed in the Environmental Criteria Manual.
- (C) The requirements of this subsection apply along Lake Travis, Lake Austin, Lake Walter E. Long, and [øø] Lady Bird Lake.
 - (1) A dock, public boat ramp, bulkhead or marina, and necessary access and appurtenances, are permitted in a critical water quality zone subject to compliance with Chapter 25-2, Subchapter C, Article 12 (*Docks, Bulkheads, and Shoreline Access*). For a single-family residential use, necessary access may not exceed the minimum area of land disturbance required to construct a single means of access from the shoreline to a dock.
 - (2) Disturbed areas must be restored in accordance with the Environmental Criteria Manual and the following requirements:
 - (a) Within a lakefront critical water quality zone, or an equivalent area within 25 feet of a shoreline, restoration must include:
 - (i) at least one native shade tree and one native understory tree, per 500 square feet of disturbed area; and
 - (ii) one native shrub per 150 square feet of disturbed area; and
 - (b) Remaining disturbed areas must be restored per standard specifications for native restoration.
 - (3) Within the shoreline setback area defined by Section 25-2-551 (*Lake Austin (LA) District Regulations*) and within the overlay established by Section 25-2-180 (*Lake Austin (LA) Overlay District*), no more than 30 percent of the total number of shade trees of 8 inches or greater, as

designated in the Environmental Criteria Manual, may be removed.

- (4) Before a building permit may be issued or a site plan released, approval by the Watershed Protection Department is required for chemicals used to treat building materials that will be submerged in water.
- (5) Bank erosion above the 100-year-flood plain may be stabilized within a lakefront critical water quality zone if the restoration meets the requirements of Subsection (B) (2) of this section.
- (6) A retaining wall, bulkhead, or other erosion protection device must be designed and constructed to minimize wave return and wave action in compliance with the Environmental Criteria Manual. A shoreline modification within the wave action zone with a greater than 45 degree vertical slope for any portion greater than one foot in height is not allowed on or adjacent to the shoreline of a lake, unless the shoreline modification is located within an existing man-made channel.
- (7) A retaining wall, bulkhead, or other erosion protection device may not capture or recapture land from a lake unless doing so is required to restore the shoreline to whichever of the following boundaries would encroach the least into the lake:
 - (a) the shoreline as it existed 10 years before the date of application, with documentation as prescribed by the Environmental Criteria Manual; or
 - (b) the lakeside boundary of the subdivided lot line.
- (8) A bulkhead may be replaced in front of an existing bulkhead once, if:
 - (a) the existing bulkhead was legally constructed;

- (b) construction of the replacement bulkhead does not change the location of the shoreline by more than 6 inches; and
 - (c) the director determines that there is no reasonable alternative to replacement of the bulkhead in the location of the existing bulkhead.
 - (9) Dredging is prohibited unless:
 - (a) the area of dredging is less than 25 cubic yards; and
 - (b) the dredging is necessary for navigation safety.
- (D) A utility line, including a storm drain, is prohibited in the critical water quality zone, except as provided in subsection (E) or for a necessary crossing. A necessary utility crossing may cross into or through a critical water quality zone only if:
 - (1) the utility line follows the most direct path into or across the critical water quality zone to minimize disturbance, unless boring or tunneling is the proposed method of installation for the entire crossing and all bore pits are located outside of the critical water quality zone;
 - (2) the depth of the utility line and location of associated access shafts are not located within an erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual;
 - (3) in the Barton Springs Zone, the crossing is approved by the director [~~of the Watershed Protection Department~~].
- (F) In-channel detention basins and in-channel wet ponds are allowed in the critical water quality zone only if:
 - (1) proposed as part of a public capital improvement project or public private partnership;
 - (2) no alternative location is feasible; and

- (3) designed in accordance with the Environmental Criteria Manual.
- (G) Floodplain modification is [~~modifications are~~] prohibited in the critical water quality zone unless the modification proposed:
 - (1) is [~~the floodplain modifications proposed are~~] necessary to address an existing threat to public health and safety, as determined by the director [~~of the Watershed Protection Department~~];
 - (2) is designed solely to improve floodplain health [~~the floodplain modifications proposed would provide a significant, demonstrable environmental benefit,~~] as determined by a functional assessment of floodplain health as prescribed by the Environmental Criteria Manual; or
 - (3) is the minimum [~~the floodplain modifications proposed are~~] necessary for development allowed in the critical water quality zone under Section 25-8-261 (*Critical Water Quality Zone Development*) or [~~;~~] Section 25-8-262 (*Critical Water Quality Zone Mobility [Street] Crossings*) [~~;~~ or Section 25-8-367 (*Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long*)] as prescribed by the Environmental Criteria Manual.

PART 24. Subsections (B) and (C) of City Code Section 25-8-262 (*Critical Water Quality Zone Mobility Crossings*) are amended to read:

- (B) This subsection applies in a watershed other than an urban watershed.
 - (1) A major waterway critical water quality zone may be crossed by a Level 3, 4, or 5 [~~an arterial~~] street or rail line identified in the Transportation Plan.
 - (2) An intermediate waterway critical water quality zone may be crossed by a Level 2, 3, 4, or 5 [~~an arterial street, collector~~] street or rail line, except:

- (a) a Level 2 [~~collector~~] street crossing must be at least 2,500 feet, measured along the centerline of the waterway, from a Level 2, 3, 4, or 5 [~~collector or arterial~~] street crossing on the same waterway; or
 - (b) in a water supply suburban or water supply rural watershed, or the Barton Springs Zone, a Level 2 [~~collector~~] street crossing must be at least one mile, measured along the centerline of the waterway, from a Level 2, 3, 4, or 5 [~~collector or arterial~~] street crossing on the same waterway.
- (3) A minor waterway critical water quality zone may be crossed by a Level 2, 3, 4, or 5 [~~an arterial street, collector~~] street[, or rail line, except:
 - (a) a Level 2 [~~collector~~] street crossing must be at least 900 feet, measured along the centerline of the waterway, from a Level 2, 3, 4, or 5 [~~collector or arterial~~] street crossing on the same waterway; or
 - (b) in a water supply suburban or water supply rural watershed, or the Barton Springs Zone, a Level 2 [~~collector~~] street crossing must be at least 2,000 feet, measured along the centerline of the waterway, from a Level 2, 3, 4, or 5 [~~collector or arterial~~] street crossing on the same waterway.
- (4) A minor waterway critical water quality zone may be crossed by a Level 1 or 2 [~~residential or commercial~~] street if necessary to provide access to property that cannot otherwise be safely accessed.
- (C) In all watersheds, multi-use trails may cross a critical water quality zone of any waterway if:
 - (1) designed in compliance with the Environmental Criteria Manual; and
 - (2) the development demonstrates no additional adverse impact from flood or erosion potential.

PART 25. City Code Chapter 25-8 (*Environment*) is amended to add a new Section 25-8-263 to read:

§ 25-8-263 FLOODPLAIN MODIFICATION.

- (A) All floodplain modifications must:
 - (1) be designed to accommodate existing and fully-vegetated hydraulic conditions;
 - (2) apply sound engineering and ecological practices, prevent and reduce degradation of water quality, and demonstrate the stability and integrity of floodplains and waterways, as prescribed in the Environmental Criteria Manual;
 - (3) restore floodplain health, or provide mitigation if restoration is infeasible, to support natural functions and processes as prescribed in the floodplain modification criteria in the Environmental Criteria Manual; and
 - (4) comply with the requirements of Chapter 25-7 (*Drainage*), the Drainage Criteria Manual, and the Environmental Criteria Manual.
- (B) Floodplain modification within a critical water quality zone is prohibited except as allowed under Section 25-8-261 (*Critical Water Quality Zone Development*).
- (C) Floodplain modification outside a critical water quality zone is allowed only if the modification proposed:
 - (1) is necessary to protect public health and safety by addressing an existing threat, as determined by the director;
 - (2) is designed solely to improve floodplain health, as determined by a functional assessment of floodplain health as prescribed by the Environmental Criteria Manual;
 - (3) is located within a floodplain area classified as in fair or poor condition, as determined by a functional assessment of floodplain health, and provides restoration or mitigation in

accordance with the ratios and specifications prescribed in the Environmental Criteria Manual; or

- (4) is the minimum modification necessary for development allowed under Section 25-8-261 (*Critical Water Quality Development*) or 25-8-262 (*Critical Water Quality Zone Mobility Crossings*).
- (D) If on-site restoration, as prescribed in the Environmental Criteria Manual, is infeasible and mitigation is required under this section, it may be satisfied by:
- (1) paying into the Riparian Zone Mitigation Fund a nonrefundable amount established by ordinance;
 - (2) transferring in fee simple or placing restrictions on mitigation land approved by the director and meeting the following conditions:
 - (a) located within the same watershed classification;
 - (b) in accordance with the procedures in Subsection (H)(3) of Section 25-8-26 (*Redevelopment Exception in the Barton Springs Zone*);
 - (c) dedicated to or restricted for the benefit of the City, or another entity approved by the director, and which the City or other approved entity accepts; and
 - (d) an amount proportionate to the amount of area within the existing floodplain that is proposed to be modified, as prescribed in the Environmental Criteria Manual; or
 - (3) a combination of the mitigation methods described in Subsections (D)(1) and (D)(2), if approved by the director.

PART 26. Subsections (B) and (C) of City Code Section 25-8-281 (*Critical Environmental Features*) are amended to read:

- (B) A residential lot may not include a critical environmental feature or a critical environmental feature buffer zone and may not be located within 50 feet of a critical environmental feature.

- (C) This subsection prescribes the requirements for critical environmental feature buffer zones.
- (1) A buffer zone is established around each critical environmental feature described in this subchapter.
 - (a) Except as provided in Subsection (C)(1)(b), the width of the buffer zone is 150 feet from the edge of the critical environmental feature.
 - (b) For a point recharge feature, the buffer zone coincides with the topographically defined catchment basin, except that the width of the buffer zone from the edge of the critical environmental feature is:
 - (i) not less than 150 feet;
 - (ii) not more than 300 feet; and
 - (iii) calculated in accordance with the Environmental Criteria Manual.
 - (2) Within a buffer zone described in this subsection:
 - (a) the natural vegetative cover must be retained to the maximum extent practicable;
 - (b) construction is prohibited; and
 - (c) wastewater disposal or irrigation is prohibited.
 - (3) If located at least 50 feet from the edge of the critical environmental feature, the prohibition of Subsection (C)(2)(b) does not apply to:
 - (a) a [~~yard or~~] hiking trail; [~~or~~]
 - (b) a recharge basin approved under Section 25-8-213 (*Water Quality Control Standards*) that discharges to a point recharge feature; or[-]
 - (c) an innovative runoff management practice approved under Section 25-8-151 (*Innovative Management*)

Practices) that is designed to address the standards of this section, enhance the recharge of groundwater and the discharge of springs, and maintain the function of critical environmental features.

- (4) Perimeter fencing with not less than one access gate must be installed at the outer edge of the buffer zone for all point recharge features. The fencing must comply with the Standard Specifications Manual.
- (5) The owner must maintain the buffer zone in accordance with standards in the Environmental Criteria Manual to preserve the water quality function of the buffer.
- (6) All critical environmental feature locations and required setbacks must be shown on preliminary subdivision plans, site plans, and other permits as determined by the director.
- (7) All critical environmental feature locations must be shown on final plats.

PART 27. City Code Section 25-8-282 (*Wetland Protection*) is amended to read:

§ 25-8-282 WETLAND PROTECTION.

- (A) Wetlands must be protected in all watersheds except for wetlands located within the area [in the] bounded by Interstate 35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street that are not associated with the critical water quality zone of Lady Bird Lake.
- (B) Protection methods for wetlands require the approval of the director, and may include:
 - (1) appropriate setbacks that preserve the wetlands or wetland functions;
 - (2) wetland mitigation, including wetland replacement; or
 - (3) wetland restoration or enhancement[; ~~or~~]
 - ~~[(4) use of a wetlands for water quality controls].~~

~~[(C) The director of the Watershed Protection Department may approve:~~

- ~~(1) the removal and replacement of a wetland; or~~
- ~~(2) the elimination of setbacks from a wetland that is proposed to be used as a water quality control.]~~

PART 28. City Code Section 25-8-323 (*Temporary Storage Areas; Topsoil Protection*) is amended to add a new Subsection (C) to read:

(C) For areas on the site that are to remain pervious after development, any soils that are compacted during site grading and construction operations must be decompacted in compliance with the Environmental Criteria Manual and the Standard Specifications Manual.

PART 29. City Code Section 25-8-341 (*Cut Requirements*) is amended to read:

§ 25-8-341 CUT REQUIREMENTS.

- (A) Cuts on a tract of land may not exceed four feet of depth, except:
- (1) in an urban watershed;
 - (2) in a roadway right-of-way;
 - (3) for construction of a building foundation or swimming pool;
 - (4) for construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if:
 - (a) the design and location of the facility within the site minimize the amount of cut over four feet;
 - (b) the cut is the minimum necessary for the appropriate functioning of the facility; and
 - (c) the cut is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;

- (5) for utility construction or a wastewater drain field, if the area is restored to natural grade;
- (6) in a state-permitted sanitary landfill or a sand or gravel excavation located in the extraterritorial jurisdiction, if:
 - (a) the cut is not in a critical water quality zone;
 - (b) the cut does not alter a 100-year floodplain;
 - (c) the landfill or excavation has an erosion and restoration plan approved by the City; and
 - (d) all other applicable City Code provisions are met.
- (7) for any cut associated with construction of a multi-use trail, if:
 - (a) the cut is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;
 - (b) the cut is limited to no more than eight feet in depth;
 - (c) the cut is located in a public right-of-way or public easement; and
 - (d) the trail is designed in accordance with the Environmental Criteria Manual; or
- (8) for construction of a street or driveway necessary to provide primary access if:
 - (a) the construction complies with Division 3 (*Construction on Slopes*) of this article;
 - (b) the cut is not within a critical water quality zone;
 - (c) the cut is limited to no more than eight feet in depth;
 - (d) the cut over four feet is the minimum amount necessary to comply with safety access requirements and the horizontal and vertical curve requirements of the Transportation Criteria Manual; and

- (e) there is no other feasible alternative for the street or driveway location.

PART 30. Subsection (A) of City Code Section 25-8-342 (*Fill Requirements*) is amended to read:

- (A) Fill on a tract of land may not exceed four feet of depth, except:
 - (1) in an urban watershed;
 - (2) in a roadway right-of-way;
 - (3) under a foundation with sides perpendicular to the ground, or with pier and beam construction;
 - (4) for construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if:
 - (a) the design and location of the facility within the site minimize the amount of fill over four feet;
 - (b) the fill is the minimum necessary for the appropriate functioning of the facility; and
 - (c) the fill is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;
 - (5) for utility construction or a wastewater drain field;
 - (6) in a state-permitted sanitary landfill located in the extraterritorial jurisdiction, if:
 - (a) the fill is derived from the landfill operation;
 - (b) the fill is not placed in a critical water quality zone or a 100-year floodplain;
 - (c) the landfill operation has an erosion and restoration plan approved by the City; and
 - (d) all other applicable City Code provisions are met; ~~[or]~~

- (7) for fill associated with construction of a multi-use trail, if:
 - (a) the fill is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;
 - (b) the fill is limited to no more than eight feet in depth;
 - (c) the fill is located in a public right-of-way or public easement; and
 - (d) the trail is designed in accordance with the Environmental Criteria Manual; or[-]
- (8) for construction of a street or driveway necessary to provide primary access if:
 - (a) the construction complies with Division 3 (*Construction on Slopes*) of this article;
 - (b) the fill is not within a critical water quality zone;
 - (c) the fill is limited to no more than eight feet in depth;
 - (d) the fill over four feet is the minimum amount necessary to comply with safety access requirements and the horizontal and vertical curve requirements of the Transportation Criteria Manual; and
 - (e) there is no other feasible alternative for the street or driveway location.

PART 31. City Code § 25-8-364 (*Floodplain Modification*) is repealed.

PART 32. City Code § 25-8-367 (*Relocation of Shoreline Between Tom Miller Dam and Longhorn Dam*) is repealed.

PART 33. City Code § 25-8-368 (*Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long*) is repealed.

PART 34. Subsection (A) of City Code Section 25-8-422 (*Water Quality Transition Zone*) is amended to read:

- (A) Development is prohibited in a water quality transition zone that lies over the South Edwards Aquifer recharge zone, except for:
 - (1) development described in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*); and
 - (2) minor drainage facilities or water quality controls that comply with Section 25-8-263 [~~25-8-364~~] (*Floodplain Modification*) and the floodplain modification criteria in the Environmental Criteria Manual.

PART 35. City Code Section 25-8-452 (*Water Quality Transition Zone*) is amended to read:

§ 25-8-452 WATER QUALITY TRANSITION ZONE.

- (A) Development is prohibited in a water quality transition zone that lies over the South Edwards Aquifer recharge zone, except for:
 - (1) development described in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*); and
 - (2) minor drainage facilities or water quality controls that comply with Section 25-8-263 [~~25-8-364~~] (*Floodplain Modification*) and the floodplain modification criteria in the Environmental Criteria Manual.
- (B) Development is prohibited in a water quality transition zone that lies outside the South Edwards Aquifer recharge zone, except for:
 - (1) development described in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*);
 - (2) streets or public mobility projects in the right-of-way;
 - (3) minor drainage facilities or water quality controls that comply with Section 25-8-263 [~~25-8-364~~] (*Floodplain Modification*) and the floodplain modification guidelines of the Environmental Criteria Manual; and
 - (4) duplex or single-family residential development with a minimum lot size of two acres and a density of not more than one unit for each three acres, excluding acreage in the 100 year flood plain.

- (C) A lot that lies within a critical water quality zone must also include at least two acres in a water quality transition zone or uplands zone.

PART 36. City Code Section 25-8-482 (*Water Quality Transition Zone*) is amended to read:

§ 25-8-482 WATER QUALITY TRANSITION ZONE.

- (A) Development is prohibited in a water quality transition zone that lies over the Edwards Aquifer recharge zone, except for:
- (1) development described in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*); and
 - (2) minor drainage facilities or water quality controls that comply with Section 25-8-263 [~~25-8-364~~] (*Floodplain Modification*) and the floodplain modification criteria of the Environmental Criteria Manual.
- (B) Development is prohibited in a water quality transition zone that lies outside the Edwards Aquifer recharge zone, except for:
- (1) development described in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*);
 - (2) minor drainage facilities or water quality controls that comply with Section 25-8-263 [~~25-8-364~~] (*Floodplain Modification*) and the floodplain modification guidelines of the Environmental Criteria Manual;
 - (3) streets; and
 - (4) duplex or single-family residential housing with a minimum lot size of two acres and a density of not more than one unit for each three acres, excluding acreage in the 100-year floodplain.

PART 37. City Code Chapter 25-8, Subchapter B, Article 2 (*Endangered Species*) is repealed and replaced as follows:

ARTICLE 2. THREATENED OR ENDANGERED SPECIES NOTIFICATION

§ 25-8-691 THREATENED OR ENDANGERED SPECIES NOTIFICATION.

- (A) This section applies in areas of the planning jurisdiction that may contain habitat for federally listed threatened or endangered species identified in the map maintained by the City online or available for inspection in the office of the Development Services Department.
- (B) On submission of an application for a subdivision or site plan in an area described in Subsection (A), the applicant must give notice of the application to the appropriate authority, including:
 - (1) United States Fish and Wildlife Service;
 - (2) Balcones Canyonlands Conservation Plan Coordinating Committee Secretary; and
 - (3) Hays, Travis, or Williamson County, as applicable depending on project location.
- (C) The notice must include a statement that the development could cause the loss of threatened or endangered species habitat.

PART 38. Subsection (D) of City Code Section 25-8-42 (*Administrative Variances*) is amended to read:

- (D) The director may grant a variance described in Subsection (B) only after determining that development in accordance with the variance meets the objective of the requirement for which the variance is requested and:
 - (1) for property in the Barton Springs Zone, the variance will result in water quality that is at least equal to the water quality achievable without the variance;
 - (2) for a variance from Subsection 25-8-213(C), that the proposed water quality control is:
 - (a) necessitated by unique site conditions; or
 - (b) necessary to avoid a loss in residential units or building square footage; ~~excluding any potential loss of impervious cover entitlements resulting from full compliance~~];
 - (3) for a variance from Section 25-8-261, that the development is necessary to allow a private driveway or private street to cross a

critical water quality zone; The applicant must also demonstrate compliance with the following:

- (a) The crossing must span the active channel or use open bottom culverts as determined by the director.
 - (b) In suburban watersheds, critical water quality zone buffer averaging must be applied to the extent feasible in order to minimize the area of the private driveway within the critical water quality zone impacted by the crossing.
 - (c) The location of the crossing must minimize impacts to critical environmental features, protected and heritage trees, and slopes greater than 15%, and must minimize the amount of cut or fill necessary for construction.
 - (d) The construction is not located in the Barton Springs Zone.
- (4) for a variance from Subsection 25-8-261(B)(5), that the proposed work on or placement of the athletic field will have no adverse environmental impacts;
 - (5) for a variance from Subsection 25-8-261(H), that the green stormwater infrastructure is:
 - (a) not required for regulatory compliance with 25-8-211 (*Water Quality Control Requirement*);
 - (b) designed to capture runoff from existing, untreated impervious cover; and
 - (c) proposed in a location that is the minimum necessary departure from the code requirement;
 - (6) for a variance from Section 25-8-281, that the proposed measures preserve all characteristics of the critical environmental feature;
 - (7) for a variance from Section 25-8-341 or Section 25-8-342, the cut or fill is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;
 - (8) for a variance from Subsection 25-8-343(A), use of the spoil provides a necessary public benefit. Necessary public benefits include:
 - (a) roadways;


- (b) stormwater detention facilities;
 - (c) public or private park sites; and
 - (d) building sites that comply with Section 25-8-341 (*Cut Requirements*), Section 25-8-342 (*Fill Requirements*), and Chapter 25-7 (*Drainage*); [~~and~~]
- (9) for a variance from Section 25-8-365, there are no adverse environmental or drainage impacts; or
- (10) for a variance from Subsection 25-8-392(B)(6), Subsection 25-8-392(C)(6), Subsection 25-8-423(D), or Subsection 25-8-453(E), the variance:
- (a) is the minimum deviation needed to provide necessary improvements for a public mobility project in the right-of-way; and
 - (b) does not create significant adverse environmental impacts.

PART 39. Parts 1 through 37 of this ordinance take effect on November 7, 2022. Part 38 of this ordinance takes effect on November 1, 2023.

PASSED AND APPROVED

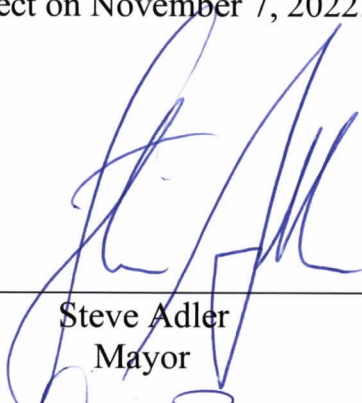
_____, October 27, 2022

APPROVED:



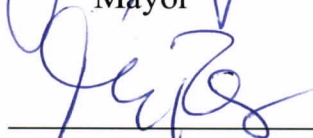
Anne L. Morgan
City Attorney

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Steve Adler
Mayor

ATTEST:



Myrna Rios
City Clerk