

ORDINANCE NO. 20240307-037

AN ORDINANCE AMENDING CITY CODE CHAPTER 25-9 RELATING TO REQUIREMENTS FOR WATER CONSERVATION IN THE IMPLEMENTATION OF THE WATER FORWARD PLAN, INCLUDING MEASURING DISTANCES FOR THE RECLAIMED WATER CONNECTION REQUIREMENT, CLARIFYING DEFINITIONS, MODIFYING VARIANCES, AND ADDING CERTAIN AFFORDABLE HOUSING EXEMPTIONS FOR RECLAIMED WATER CONNECTIONS AND ONSITE WATER REUSE REQUIREMENTS; AND WAIVING REQUIREMENTS OF CITY CODE SECTION 25-1-502.

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

PART 1. City Code Section 25-9-413 (*Onsite Water Reuse System Requirement*) is renumbered to be Section 25-9-414; Section 25-9-412 (*Development Project Requirements*) is renumbered to be Section 25-9-413; Section 25-9-411 (*Reclaimed Water Connection Requirements*) is renumbered to be Section 25-9-412; and Section 25-9-410 (*Definitions*) is renumbered to be Section 25-9-411.

PART 2. City Code Chapter 25-9 (*Water and Wastewater*) is amended to add a new Section 25-9-410 to read:

§ 25-9-410 Applicability.

This article applies to a site that includes multi-family and non-residential buildings and that receives retail water service from Austin Water or a successor department.

PART 3. City Code Section 25-9-411 (*Definitions*) is amended to add new definitions of Commercial Building, Mixed Use Building, and Multi-Family Building to read as follows and to renumber the existing definitions accordingly:

- (1) COMMERCIAL BUILDING means a building that is developed for industry, commerce, trade, recreation, business, or municipal, institutional, or civic use.
- (4) MIXED USE BUILDING means a building developed for any combination of commercial and multi-family building uses.
- (5) MULTI-FAMILY BUILDING means a building that contains five or more residential housing units.

PART 4. City Code Section 25-9-412 (*Reclaimed Water Connection Requirements*) is amended to read:

25-9-412 Reclaimed Water Connection Requirements.

- (A) A small development project with a property boundary located within 250 feet in horizontal distance of a reclaimed water line, measured based on the closest practicable access route, shall connect to a reclaimed water line and use reclaimed water for irrigation, cooling, toilet flushing, and other significant non-potable water uses identified in the water balance calculator.
- (B) A large development project with a property boundary located within 500 feet in horizontal distance of a reclaimed water line, measured based on the closest practicable access route, shall connect to a reclaimed water line and use reclaimed water for irrigation, cooling, toilet flushing, and other significant non-potable water uses identified in the water balance calculator.
- (C) The director may grant a variance for the requirements of this section for:
 - (1) small development projects if site conditions are such that compliance would represent a significant financial hardship [~~or health risk~~] to the applicant; or [~~the public~~];
 - (2) [~~large development projects if site conditions are such that compliance would represent a health risk to the applicant or the public; or~~
 - (3) ~~municipal~~] uses associated with [~~law enforcement or~~] public health and safety.
- (D) The director shall grant a variance for the requirements of this section for a large development with a multifamily component that is more than 250 feet from and within 500 feet of a reclaimed water line until April 1, 2024.
- (E) A development is not required to connect to a reclaimed water line or use reclaimed water when the director of the Housing Department certifies the development is participating in a city, state, or federal program that requires:
 - (1) A minimum of fifty percent on-site income-restricted dwelling units for 60% or lower median family income for rental units; or

- (2) A minimum of fifty percent on-site income-restricted dwelling units for 80% or lower median family income for ownership units.

PART 5. City Code Section 25-9-414 (*Onsite Water Reuse System Requirement*) is amended to read:

§ 25-9-414 Onsite Water Reuse System Requirement.

- (A) Except as provided in Subsection (B), an ~~[A]~~ onsite water reuse system is required for a large development project for which a site plan application is submitted under Chapter 25-5 (*Site Plans*) as specified in Chapter 15-13 (*Regulation of Onsite Water Reuse Systems*).
- (B) A development is not required to have an onsite water reuse system when:
 - (1) the director approves a fee in lieu of providing an onsite water reuse system under Subsection (C); or
 - (2) the director of the Housing Department certifies the development is participating in a city, state, or federal program that requires:
 - (a) a minimum of fifty percent on-site income-restricted dwelling units for 60% or lower median family income for rental units; or
 - (b) a minimum of fifty percent on-site income-restricted dwelling units for 80% or lower median family income for ownership units.
- (C) Fee In Lieu of Providing Onsite Water Reuse System
 - (1) The director may approve the payment of a fee in lieu of providing an onsite water reuse system if:
 - (a) the applicant submits a written request in a manner prescribed by the director at the time of site plan submittal; and
 - (b) the director determines that the qualifying multi-family building is more than 500 feet from the centralized reclaimed system; and

- (c) the applicant installs separate distribution plumbing to all non-potable fixtures within the project for a future centralized connection in accordance with the Utilities Criteria Manual before issuance of a certificate of occupancy.
- (2) The amount of the fee in lieu shall be established by separate ordinance.
- (3) For a site plan application filed on or after April 1, 2024, the fee in lieu shall be calculated using the rate set forth in the fee schedule in effect at the time the site plan application was filed.

PART 6. The definition of Water Transmission Main in City Code Section 25-9-32 (*Definitions*) is amended to read:

- (15) WATER TRANSMISSION MAIN means a potable water main generally considered to be 24-inches in diameter or larger and to which direct connections for retail service to a property are not allowed, unless an exception is approved by the Director.

PART 7. Council waives the requirement for review by the Planning Commission in City Code Section 25-1-502 (*Amendment; Review*).

PART 8. The City Council directs the City Manager to provide an update on the following items 6 months after the passage of the ordinance.

- (1) Costs of compliance on actual projects compared to estimated costs.
- (2) Estimated water savings from the new requirements.
- (3) Participation in cost share and incentive programs.
- (4) A holistic comparison of the impact of these requirements and fees on residents of different housing typologies including suburban single family, midrise buildings, high rise buildings, developments utilizing density bonus programs or affordable housing dollars, and commercial development. The analysis should include an impact of the additional monthly rents from higher construction costs, the offsets from the cost share and incentive programs, fee-in-lieu payments, lower water rates from reclaimed water use, and the community benefits charge.

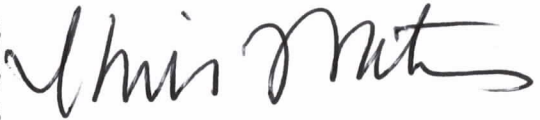
The City Manager is further directed to explore the feasibility of a program to fully subsidize the cost of reclaimed connections, dual use plumbing, and on-site water reuse systems for affordable housing projects that are exempt from the requirements with the goal of implementing a program by April 1st, 2025. The funding should come from sources other than affordable housing programs.

The City Manager is further directed to provide recommendations to ensure that the burden of the fees and requirements is equitable cost impact upon different types of development and users based on actual water usage.

PART 9. This ordinance takes effect on March 18, 2024.

PASSED AND APPROVED

_____, March 7, 2024

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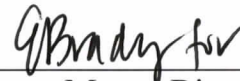
Kirk Watson
Mayor

APPROVED:



Anne L. Morgan
City Attorney

ATTEST:



Myrna Rios
City Clerk