

Infrastructure



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23-10A-1010 **Applicability**

This Article applies in the planning jurisdiction of the City of Austin unless stated otherwise in this Article.

23-10A-1020 **Service Area of Austin Water**

The service area of the Austin Water is coterminous with the water, reclaimed water, and wastewater impact fee service area established by the Council under Article 23-10C (Water And Wastewater Capital Recovery Fees), including each amendment or revision of the area.

23-10A-1030 **Service Outside Service Area Prohibited**

The City may not provide water or wastewater service outside the service area of the Austin Water unless the Council by ordinance waives the prohibition.

23-10A-1040 **Regulation of a Wastewater Treatment Plant Not Owned by the City**

The City will exercise its powers and duties given to it under the Texas Water Code.

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23-10A-2010 Applicability

This Division does not apply to a service extension that is constructed as part of a project serving a property for which the Water Utility Director determines that the water or wastewater system that will serve the property can provide suitable and sufficient service in accordance with the Utilities Criteria Manual, and:

- (1) the nearest point on the property's boundary is 100 feet or less from an accessible water or wastewater system; or
- (2) the Water Utility Director determines that a suitable service connection can be made in compliance with the Utilities Criteria Manual to a water or wastewater main on the opposite side of an undivided city or county roadway.

23-10A-2020 Service Extension Application

- (A) A service extension request application is required to:
- (1) connect a property to a City utility system if an accessible water or wastewater main is more than 100 feet from the property's boundary;
 - (2) connect a property to a water transmission or wastewater interceptor within 100 feet of the property's boundary, unless an exception is approved by the Water Utility Director;
 - (3) provide utility service to a property if an existing main or facility is unsuitable or insufficient to provide service to the property;
 - (4) provide service from a decentralized wastewater system to a property where the Water Utility Director recommends the City operate and maintain that decentralized wastewater system.

- (B) A person must submit an application for a service extension to the Water Utility Director. The Water Utility Director may not accept an application if the application is not complete and the applicant has not paid the required non-refundable fee.
- (C) An application for approval of a service extension must:
 - (1) include a general description of the location, size, and capacity of the service extension;
 - (2) be accompanied by a request for annexation of the property by the City if the land is not covered by the City's certificate of convenience and necessity; and
 - (3) include other information as required by the Water Utility Director.
- (D) If either water or wastewater service is to be provided by an entity other than the City, the applicant may be required to submit evidence of a commitment from the other entity to provide the appropriate level of service (including fire flow) required for the proposed land use. The evidence must be in the form of:
 - (1) a contract with the entity;
 - (2) a letter from the entity; or
 - (3) the minutes of the relevant meeting of the governing body of the entity.
- (E) Except as provided by Section 23-10A-1030 (Service Outside Service Area Prohibited), the Water Utility Director may not accept an application for a service extension if the property to be served by the service extension is not in the service area of Austin Water.

23-10A-2030 Review and Approval Process

- (A) **Administrative Review.** An administrative review will be conducted to determine the completeness of a service extension applications. Within a time period established by state law, notification will be sent to an applicant indicating whether an application is administratively complete or if additional information is required.
- (B) **Technical Review.** After an application is determined to be administratively complete, a technical review will be conducted. Technical review may include, but is not limited to, a determination of the service requirements for the subject property, the system capacity, cost participation, and type of improvements necessary to provide service to the property. Additional information may be required from the applicant for completion of technical review.

During technical review a professional engineer employed by Austin Water shall determine the size of a water or wastewater main or the capacity of a facility that is roughly proportionate to the size or capacity that is required to serve the proposed development in accordance with Section 212.904 of the Texas Local Government Code (Apportionment of Municipal Infrastructure Costs).
- (C) **Notification of Approval.** Upon completion of the technical review, and subject to the approval requirements of Section 23-10A-2040 (Approval of Service Extension Request), notification of approval of the service extension request will be sent to the applicant.
- (D) An approved service extension request is not a reservation of capacity in the system but an acknowledgement of the intent to serve.

- (E) **Deficient or Inactive Applications.** Unless approved by the Water Utility Director, a service extension application is deemed rejected on the first anniversary of the date the Water Utility Director provides initial written notice to the applicant stating that:
- (1) the application is administratively incomplete or is technically deficient; or
 - (2) due to the applicant's inactivity, the Water Utility Director has placed the application on inactive status.

23-10A-2040 Approval of a Service Extension Request

- (A) Except as provided in Subsection (B), Council approval of a service extension request or amendment of an unexpired, approved service extension request is required.
- (B) The Water Utility Director may approve an application for a service extension request or amendment of an unexpired service extension request if:
 - (1) the Water Utility Director determines that sufficient capacity exists or will be available to meet the projected demands of the property to be served; and
 - (2) the property is located:
 - (a) in the desired development zone; or
 - (b) in the drinking water protection zone and within the full purpose corporate limits.

23-10A-2050 Environmental Resource Inventory

- (A) An applicant for a service extension request shall perform an environment resource inventory if required by the Water Utility Director.
- (B) An applicant is responsible for the cost of the environmental resource inventory.

23-10A-2060 Approval of Improvements

- (A) After a request for a service extension has been approved, an applicant must submit the construction plans for needed improvements and a copy of the approved service extension request to the Water Utility Director for review and approval of the size, capacity, routing, and location of the improvements.
- (B) The Water Utility Director may approve the size, capacity, routing, and location of an improvement only if it complies with the Utilities Criteria Manual (or equivalent standards as determined by the Water Utility Director), and with each applicable City requirement.

23-10A-2070 Construction of Improvements

An applicant for a service extension request shall construct improvements in accordance with the requirements of the City and provide information determined by the Water Utility Director to be necessary to demonstrate that construction of the service extension complies with the requirements of the City.

23-10A-2080 Expiration of Service Extension Request Approval

- (A) This Subsection applies to a service extension request approved before April 17, 2000.
- (1) Unless extended under this Subsection or Subsection (D), the approval of a service extension request remains in effect until the latest of:
 - (a) the date on which the preliminary plan expires for the property to be served by the service extension;
 - (b) the second anniversary of the date on which the service extension request was approved if, on or before that date:
 - (i) a preliminary plan for the property to be served has not been approved; and
 - (ii) construction of the service extension has not begun; or
 - (c) the third anniversary of the date on which the service extension request was approved, if:
 - (i) on or before that date a preliminary plan for the property to be served has not been approved; and
 - (ii) construction of the service extension began before the second anniversary of the date on which the service extension request was approved but, on or before the third anniversary of that date, construction of the service extension has not been completed and accepted for operation and maintenance by the City.
 - (2) If construction of a service extension begins while the approval is in effect under Paragraph (1), the Water Utility Director may extend the approval of a service extension request for the period of time estimated to be necessary to complete construction of the service extension.
- (B) This Subsection applies to a service extension request approved after April 17, 2000, and on or before March 31, 2013.
- (1) Except as set forth in Paragraph(2) of this Subsection, an approved service extension request expires on the latest of:
 - (a) 120 days after the date of its approval;
 - (b) for a project with a pending development application, the date the application expires; or
 - (c) for a project with an approved development application, the date the approval expires.
 - (2) For a project with a recorded plat, the service extension request does not expire.
 - (3) If a project's intensity, proposed land uses, or anticipated water or wastewater demands change, any such change must be reported to the Water Utility Director and there must be an application for the amended service extension request unless the Water Utility Director determines the change is not so substantial as to require an amendment.
- (C) This Subsection applies to a service extension request approved on or after April 1, 2013.
- (1) Except as set forth in Paragraph (2) of this Subsection, an approved service extension request expires on the latest of:

- (a) 180 days after the date of its approval;
 - (b) for a project with a pending development application, the date the application expires; or
 - (c) for a project with an approved development application, the date the approval expires.
- (2) For a project with a recorded plat, the service extension request does not expire for the portion of the property that was platted.
- (3) If a project's intensity, proposed land uses, lot configuration, or anticipated water or wastewater demands change, any such change must be reported to the Water Utility Director and there must be an application for the amended service extension request unless the Water Utility Director determines the change is not so substantial as to require an amendment.
- (D) Under this Section, if the approval of a service extension request requires cost participation from the City under a cost participation contract approved by the Council:
 - (1) construction of the service extension begins on the date that fiscal security is posted or money is deposited in compliance with the contract; and
 - (2) the service extension request approval is extended until construction of the service extension is complete and the City accepts the mains and facilities constructed under the contract.

23-10A-2090 Service Commitment Transfer Not Permitted

A service commitment may not be transferred from one property to another.

23-10A-2100 Development Compliance

Development of a project for which a service extension request is approved must comply with the terms of the approved service extension request and all City requirements pertaining to water conservation.

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23-10A-3010 Eligible Projects

- (A) An entity that agrees to construct a water or wastewater main or a facility that on acceptance will become part of the City water and wastewater system may apply to the City for cost participation in a water or wastewater main or a facility if the main or facility is oversized at the request of the City to serve additional property. Cost participation is not permitted for a wastewater main or wastewater facility that provides service within the drinking water protection zone.
- (B) Under this Section cost participation will apply:
 - (1) if the improvement is a water main and has a diameter of more than 8 inches;
 - (2) if the improvement is a wastewater main and has a diameter of more than 8 inches; or
 - (3) if the improvement is a pump station, reservoir, lift station, force main or wastewater treatment plant.

23-10A-3020 Amount of Cost Participation

Tables 23-10A-3020.A and 23-10B-3020.B below set forth the percentage of cost participation in the hard costs of an oversized water or wastewater main. The percentage of cost participation is based on the increased percentage in pipe diameter due to oversizing established under Section 23-10A-3030 (Request for Cost Participation). Cost participation is determined by multiplying the percentage set forth in Tables 23-10A-3020.A and 23-10B-3020.B by the hard costs of an oversized line.

- (A) The following table sets forth the amount of cost participation for the hard costs associated with an oversized water main:

Table 23-10A-3020.A: Amount of Cost Participation (Water)

Minimum Required Pipe Diameter for the Property (inches)	Percentage of Cost Participation Based on Oversized Pipe Diameter							
	8	12	16	24	30	36	42	48
8	0%	33%	50%	66%	73%	78%	81%	83%
12	-	0%	25%	50%	60%	66%	71%	75%
16	-	-	0%	33%	47%	56%	62%	66%
24	-	-	-	0%	20%	33%	43%	50%
30	-	-	-	-	0%	17%	29%	37%
36	-	-	-	-	-	0%	14%	25%
42	-	-	-	-	-	-	0%	12%
48	-	-	-	-	-	-	-	0%

(B) The following table sets forth the amount of cost participation for the hard costs associated with an oversized wastewater main:

Table 23-10A-3020.B: Amount of Cost Participation (Wastewater)

Minimum Required Pipe Diameter for the Property (inches)	Percentage of Cost Participation Based on Oversized Pipe Diameter									
	8	12	15	18	21	24	30	36	42	48
8	0%	33%	47%	56%	62%	66%	73%	78%	81%	83%
12	-	0%	20%	33%	43%	50%	60%	66%	71%	75%
15	-	-	0%	17%	29%	37%	50%	58%	64%	69%
18	-	-	-	0%	14%	25%	40%	50%	57%	62%
21	-	-	-	-	0%	12%	30%	42%	50%	56%
24	-	-	-	-	-	0%	20%	33%	43%	50%
30	-	-	-	-	-	-	0%	17%	29%	37%
36	-	-	-	-	-	-	-	0%	14%	25%
42	-	-	-	-	-	-	-	-	0%	12%
48	-	-	-	-	-	-	-	-	-	0%

(C) The amount of cost participation for hard costs for pump stations, reservoirs, wastewater treatment plants, lift stations, force mains and other facilities will be calculated on the percentage of oversizing of the treatment capacity or pumping capacity.

(D) The amount of cost participation for soft costs may not exceed 15% of the hard costs calculated under Subsections (A), (B) and (C) of this Section.

- (E) Notwithstanding the above, under no circumstance shall cost participation under this Section exceed the amount authorized by Council, unless Council provides authorization for additional cost participation.

23-10A-3030 Request for Cost Participation

During the technical review of the application, a determination by the City will be made on whether oversizing of water or wastewater mains or facilities serving additional property in the area will be necessary. If oversizing of any water or wastewater mains or facilities is necessary, the applicant will be required to submit a written request for City cost participation to the Water Utility Director prior to approval of a service extension request.

23-10A-3040 Approval Process for Cost Participation

- (A) The Water Utility Director shall review each request for cost participation.
- (B) The Water Utility Director may recommend approval of a request for cost participation only if the Water Utility Director determines that:
 - (1) the property to be served is in the service area of Austin Water;
 - (2) the size of each proposed main or facility complies with the planning criteria of Austin Water and final design and routing will comply with the Utilities Criteria Manual;
 - (3) funds for cost participation are available from an identified source or that funds will be available to meet the proposed payment schedule; and
 - (4) the proposed main or facility is an appropriate extension or addition to the water and wastewater utility system.
- (C) During the technical review the Water Utility Director, in consideration of a construction cost estimate provided by the applicant's engineer, will establish the terms of the cost participation. The Water Utility Director will provide a recommended not-to-exceed amount for cost participation, which amount will be an estimate based on the percentages for cost participation in Section 23-10A-3020 (Amount of Cost Participation).
- (D) The Water and Wastewater Commission shall make a recommendation on the request for cost participation.
- (E) The Water Utility Director shall forward the request and the Water and Wastewater Commission recommendation to the Council for final action.

23-10A-3050 Cost Participation Requirements

- (A) An entity constructing a water or wastewater main or a facility that is eligible for cost participation may not receive a cost participation payment for the main or facility unless the entity complies with each requirement or regulation of the City, including but not limited to requirements relating to:
 - (1) the public advertising of the main or facility;
 - (2) the bidding on the main or facility;

- (3) a performance or payment bond for the main or facility;
 - (4) posting of fiscal security as set forth in the developer agreement required by Section 23-10A-3070 (Agreement);
 - (5) completion and acceptance; and
 - (6) a warranty on the main or facility.
- (B) The entity constructing the main or facility is not end to receive a cost participation payment until the entity submits documentation showing the entity's compliance with each requirement described by Subsection (A).

23-10A-3060 Cost Participation Payment

- (A) **Desired Development Zone.** For cost participation relating to an improvement associated with a service extension request in the desired development zone, the City shall pay its portion of the cost 90 days after the date the City accepts the improvement.
- (B) **Drinking Water Protection Zone.** For cost participation relating to a water improvement associated with a water service extension request to a tract in the drinking water protection zone, the City shall pay its portion of the cost in four equal annual installments, without interest, with the first payment to be made on March 1 of the second year after the year in which the City accepts the improvement.

23-10A-3070 Agreement

- (A) An applicant for cost participation must enter into an agreement with the City before the City may make a cost participation payment.
- (B) The Water Utility Director shall determine the terms of the agreement.

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23-10A-4010 Tap Permit Required

A person may not connect a property to the City's water or wastewater utility system unless the person holds a tap permit issued by the Water Utility Director approving the connection.

23-10A-4020 Property Required to be in Utility Service Area

The Water Utility Director may not issue a tap permit for property that is located outside the City's water and wastewater utility service area unless the Council by ordinance waives the prohibition.

23-10A-4030 Application for Tap Permit; Fees; Capacity

- (A) An applicant for a tap permit must apply to Austin Water on a form approved by the Water Utility Director.
- (B) An application for a tap permit must include:
 - (1) the name, title, address and telephone number of the applicant;
 - (2) a description of the property for which the tap permit is to be issued;
 - (3) documentation demonstrating that the property that is the subject of the tap permit application is:
 - (a) a legal lot under state law and local subdivision requirements; and
 - (b) located in:
 - (i) the City's water and wastewater impact fee service area; or

- (ii) an area covered by an agreement for the wholesale sale of water between the City and another utility service provider that authorizes the City to issue tap permits under the agreement;
- (4) If applicable, documentation that engineered tap plan has been approved;
- (5) if applicable, documentation that the applicant's service extension has been approved; and
- (6) other information that the Water Utility Director determines is necessary to process the application.
- (C) An application for a tap permit must be accompanied by the payment of:
 - (1) the tap permit fee, connection fee, and capital recovery fee set by the Council under separate ordinance; and
 - (2) other fees required to be paid at the time the Water Utility Director issues the permit.
- (D) The Water Utility Director may not approve an application for a tap permit if existing facilities do not have actual capacity to serve the new connection.

23-10A-4040 Action on Application for Tap Permit

- (A) On approval of an application for a tap permit, the Water Utility Director shall issue a tap permit to the applicant.
- (B) If the Water Utility Director denies a tap permit, the Water Utility Director must be notify the applicant of the denial, stating the grounds for the denial.

23-10A-4050 Tap Permit Not Transferable

A water or wastewater tap permit issued under this Division is issued for a specific property or service address. The permit may not be transferred to another property or service address.

23-10A-4060 Connection Delay

- (A) The Water Utility Director may delay an applicant's connection of an exchange or septic tank cutover if the system does not have sufficient capacity for the connection.
- (B) If a connection is delayed under Subsection (A), the Water Utility Director shall extend the time for connection until there is sufficient capacity.

23-10A-4070 Expiration of Tap Permit

- (A) Except as provided in Section 23-10A-4060 (Connection Delay) and Subsection (B), a tap permit expires on the second anniversary of the date on which the permit is issued unless:
 - (1) the connection authorized by the permit is made before the second anniversary date; or

- (2) on the second anniversary date the permit holder has a building permit, plumbing permit, and/or an unexpired site plan for the property or service address for which the tap permit is issued.
- (B) The Water Utility Director may extend a tap permit if, before the second anniversary of the date the permit was issued, the permit holder submits a written application for the extension that demonstrates that good cause exists for the extension.
- (C) The Water Utility Director may not extend a tap permit for more than 90 days beyond the second anniversary of the date the permit is issued.
- (D) Under Subsection (B), “good cause” means circumstances of financial hardship or a danger to human health or safety.

23-10A-4080 Refund of Tap Permit Fee

- (A) The Water Utility Director may refund a tap permit fee.
- (B) To obtain a refund of a tap permit fee, a permit holder, before the expiration date of the permit, must:
 - (1) submit an application for the refund to the Water Utility Director stating the grounds for the refund;
 - (2) tender the tap permit at the time the refund application is submitted;
 - (3) submit documentation of the amount of the tap permit fee and the payment of the fee;
 - (4) submit other information the Water Utility Director considers necessary to process the application; and
 - (5) tender a canceled building permit if a building permit was issued.

23-10A-4090 Temporary Tap Permits for a City-supported Community Garden

- (A) In this Section, city-supported community garden and garden permit have the meanings assigned by Section 14-7-1 (Definitions).
- (B) A tap permit issued for a city-supported community garden is a temporary permit. A tap permit issued for a city-supported community garden remains valid only while the garden permit is valid.
- (C) If the garden permit terminates and the parcel of land is no longer exempt under Section 23-5A-1040 (Temporary Exemption From Platting Requirements), Austin Water shall remove the tap from the city-supported community garden.
- (D) If the garden permit terminates and the parcel of land is a legal lot, Austin Water may remove the tap from the city-supported community garden unless:
 - (1) the owner or the user of the legal lot submits an application for a tap; and
 - (2) the Water Utility Director approves a tap permit.
- (E) An applicant under Subsection (D) must pay the fees for each tap for which an application is submitted, including any impact fee.

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Article 23-10B: Water Districts

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23-10B-1010 **Applicability**

This Article applies to:

- (1) the creation of a District in the planning jurisdiction of the City of Austin;
- (2) the request by an existing District to annex or include territory in a District;
- (3) an amendment to a District consent document or an agreement with a District; and
- (4) a District bond issuance.

23-10B-1020 **Minimum Land Requirements; Economic Viability**

- (A) A District may not contain less than 100 acres of territory.
- (B) A District must contain an amount of territory sufficient to assure the economic viability of the District.
- (C) An applicant seeking consent to the creation of a District or to include territory in an existing District must submit information to demonstrate the economic viability of the proposed or existing District.

23-10B-1030 **Creation of District Inside City**

- (A) A District may be created inside the municipal limits of the City only if:
 - (1) the written consent of the City is obtained;
 - (2) creation of the District complies with this Article.
- (B) Territory located inside the full purpose municipal boundary of the City may be included in a proposed District only if:
 - (1) the territory is 1,000 feet or less from a major thoroughfare; and
 - (2) the area of the territory does not exceed five percent of the total amount of territory in the proposed District.

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23-10B-2010 Review of a Petition

- (A) The City shall review a petition filed with the City for the City's consent to:
 - (1) the creation of a District; or
 - (2) the annexation of territory to a District.
- (B) The review by the City of the petition must comply with this Division.

23-10B-2020 Preapplication Review

- (A) A person who intends to file a petition for the creation of a District may discuss the proposed District in a preapplication review with City employees before the petition is filed.
- (B) To request a preapplication review, a person must notify the City Manager of the person's intent to file a petition in writing at least 30 days before the date the person files the petition with the City.

23-10B-2030 Petition Filed; Notice of Petition

- (A) A petition for the creation of a District must be filed with the City Manager.

- (B) The City Manager shall give notice under Division 23-2C-5 (Notice Of Applications And Administrative Decisions) of a petition filed under this Section.

23-10B-2040 Designation as City Service or Non-City Service District

On the filing of a request for the consent of the City to the creation of a District, the City Manager shall designate the proposed District as a city service district or a non-city service district.

23-10B-2050 Review of Petition by City Employees

- (A) Employees of the appropriate City departments shall:
- (1) review the petition; and
 - (2) prepare a report on the petition.
- (B) A report prepared under Subsection (A) may include appropriate recommendations.
- (C) The City Manager shall send a copy of each report prepared under Subsection (A) to:
- (1) the City Clerk;
 - (2) the person who filed the petition;
 - (3) each department that participated in the review; and
 - (4) each member of the:
 - (a) Water and Wastewater Commission;
 - (b) Planning Commission;
 - (c) Environmental Commission;
 - (d) Parks and Recreation Board; and
 - (e) Urban Transportation Commission.

23-10B-2060 Review by Certain Boards and Commissions

Each board and commission identified in Section 23-10B-2050(C) (4) (Review Of Petition By City Employees) shall review the petition and prepare a recommendation on the petition.

23-10B-2070 Distribution of Reports

- (A) The City Manager shall:
- (1) compile the City department reports and board and commission recommendations into one volume; and
 - (2) send a copy of the compilation to:
 - (a) each member of the Council;

- (b) the City Clerk;
 - (c) the City Attorney;
 - (d) each department that reviewed the petition; and
 - (e) the person who filed the petition.
- (B) The copy of the compilation sent to the City Clerk is available for public inspection.

23-10B-2080 Public Hearing Before City Council

- (A) The Council shall set and hold a public hearing on the petition before the expiration of the period established by state law.
- (B) A public hearing required by Subsection (A) must be held during a regularly scheduled Council meeting.

23-10B-2090 Initial Action by City Council

- (A) After the conclusion of the public hearing required by Section 23-10B-2080 (Public Hearing Before City Council) and before the expiration of the period state law establishes for review of the petition, the Council by resolution may:
 - (1) deny consent to the creation of the District; or
 - (2) grant initial consent to creation of the District, specifying each condition necessary for final consent.
- (B) If the Council grants initial consent to the creation of a District, the Council shall instruct the City Attorney to prepare the documents required for final consent by the Council, including a consent ordinance and required agreements.
- (C) The City Attorney shall:
 - (1) draft the required documents; and
 - (2) before the time the Council is scheduled to grant final consent, send a copy of the documents to the:
 - (a) Council;
 - (b) City Clerk; and
 - (c) person who filed the petition.

23-10B-2100 Copies of Land Use Plan Required

- (A) Before the 15th day after the date the Council grants final consent to the creation of a District, the person who filed the petition for creation shall provide to the City Manager one copy, in a City approved format, of the land use plan approved by the Council.
- (B) Each copy of the approved land use plan must state on its face the date that the Council approved the land use plan. One copy of the approved land use plan must be on mylar (or in an other City approved format) and capable of being reproduced.

23-10B-2110 Council Action on Annexation Petition

The Council shall act on a petition for consent to the annexation of territory by a District before the 91st day after the date the petition is filed, except as may be otherwise required by state law.

23-10B-2120 Request for Utility Service After City Consent Denied

- (A) If the Council does not grant consent to the creation of or annexation of territory to a District, the person who filed the creation or annexation petition may request the City to provide the water or wastewater service that the District proposed to provide.
- (B) A request under Subsection (A) must be filed with the City Manager.
- (C) The City and the person filing the request shall enter into a negotiation to agree to terms of a contract under which the City shall provide the requested water or wastewater service.
- (D) A contract negotiated under Subsection (C) must be reviewed by the Water and Wastewater Commission and the Planning Commission. Each commission shall make a recommendation on the proposed contract to the Council.
- (E) The Council shall act on the proposed contract before the 121st day after the date the request for City service is filed.

23-10B-2130 Subdivision Approval

The Planning Commission may not approve a preliminary plan or final plat of subdivision in a District that does not comply with a resolution or ordinance adopted in connection with the consent by the City to the creation of the District or an agreement entered into in connection with the consent of the City to the creation of the District.

23-10B-2140 Construction of Article

- (A) To the extent of conflict between this Division and another regulation of the Code, the other Code regulation prevails.
- (B) This Article does not exempt any development located in the territory of a District or undertaken on behalf of a District from any applicable provision of this Code.

Division 23-10B-3: Conditions and Restrictions on Consent to Creation of District

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23-10B-3010 General Provisions

- (A) The Council may impose a condition or restriction on a District in connection with the consent of the City to the creation of a District in accordance with this Article, applicable City Council resolutions and ordinances, and applicable state law.
- (B) A condition or restriction imposed in connection with the consent of the City to the creation of a District must be included in a resolution, agreement, or ordinance that pertains to the District.

23-10B-3020 Conditions and Restrictions Generally

- (A) This Section applies to each District.
- (B) The plans and specifications for a facility to be financed or constructed by or on behalf of a District must be approved by the City before construction begins. Fees may be charged for the review and approval of the plans and specifications. The facility must be constructed in accordance with the approved plans and specifications.
- (C) The City may inspect the construction of a facility financed or constructed by or on behalf of a District as determined necessary by the City to ensure compliance with the approved plans and specifications and any applicable requirement. The City may charge a fee for an inspection.
- (D) A District shall prepare and file with the City Manager:
 - (1) a certified copy of each annual audit of the District;
 - (2) an annual report describing the status of construction by or on behalf of the District; and
 - (3) minutes of all District board meetings.
- (E) A District may not provide any service outside the boundary of the District without the approval of the Council.
- (F) A District may not annex territory to or exclude territory from the District without the approval of Council.

- (G) All territory and each easement for a District facility must be dedicated to the public, the District, and each successor of the District.

23-10B-3030 Conditions and Restrictions Applicable to a City Service District

- (A) This Section applies to a city service District.
- (B) If a District receives or will receive water or wastewater service from the City, the District shall adopt and enforce as a District rule Chapter 6-4 (Water Conservation), Chapter 15-10 (Wastewater Regulations), and Division 23-11B-6 (Plumbing Code).
- (C) A District may not support or encourage:
 - (1) an attempt to incorporate a municipality in the District; or
 - (2) an attempt by a municipality other than the City to annex territory in the District.
- (D) A wastewater treatment plant constructed by or on behalf of a city service District must irrigate plant effluent, if the plant would otherwise discharge:
 - (1) over the Edwards Aquifer recharge zone; or
 - (2) in the Barton Creek watershed.
- (E) A city service District shall concurrently submit to the City Manager a certified copy of each document the District submits to the Texas Co Commission on Environmental Quality, its successors, or another applicable agency of the state.

23-10B-3040 Bond-related Provisions

- (A) The following provisions must be included in a District consent agreement.
 - (1) A District must pledge the revenue and ad valorem taxes of the District to the payment of the principal of and interest on all bonds issued by the District.
 - (2) A bond may be issued by a District only for a purpose authorized by state law.
 - (3) A bond issued by a District for one purpose may not be used for another purpose.
 - (4) The City, to insure the economic vitality of a District and to the extent authorized by the laws of this state, may limit the amount of bonds the District may issue.
 - (5) To insure compliance by a District with each applicable condition or restriction imposed in connection with the consent of the City to the creation of the District, the Council is entitled to approve the issuance or sale of a District bond before the District issues a bid invitation for the bond. If the District is not in compliance with each applicable condition:
 - (a) the Council may not approve the issuance or sale of the bond; and
 - (b) the District may not issue or sell the bond.
 - (6) Each bond issued by a District must include a call provision that permits the District to redeem the bond at par.

- (7) A District may not spend the proceeds of a bond or incur any indebtedness for the purpose of providing service to territory outside the boundary of the District without the approval of the Council.
- (8) The net effective interest rate of a bond issued by a District may not exceed 102 percent of the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one month period preceding the date that notice of sale is given.
- (B) In consenting to the creation of a District, the City may impose an additional condition or restriction on the terms, provisions, or sale of a bond or note of the District. A condition or restriction imposed under this Subsection may not cause the bond or note to be unmarketable.

23-10B-3050 Utility Rates in a Municipal Utility District

- (A) The consent of the City to the creation of a municipal utility district shall be conditioned on a contract between the City and the municipal utility district. The contract must:
 - (1) include adequate detail as required by the laws of this state; and
 - (2) provide that at the time the City annexes the territory of the municipal utility district, water and wastewater rates established for property in the municipal utility district shall be sufficient to fully compensate the City for assuming the indebtedness of the municipal utility district after the municipal utility district is dissolved.
- (B) A water or wastewater rate established under a contract required by Subsection (A) shall be based on the water or wastewater rate established for other customers in the boundary of the City and shall include a component based on the monthly debt retirement payment assumed by the City. A water or wastewater rate may be recalculated as provided in the contract.
- (C) A water or wastewater rate established under a contract required by Subsection (A) must remain in effect until:
 - (1) the bonded indebtedness of the District is fully retired; and
 - (2) the City is fully compensated, regardless of whether a bond of the District is called.
- (D) The written consent of the City to the creation of a municipal utility district shall specify the date by which at least 90 percent of the water, wastewater, drainage, and road improvements for which bonds of the municipal utility district are issued must be installed or completed.

23-10B-3060 Annexation by City of Water District Territory

- (A) The consent of the City to the creation of a District may include a provision relating to the timing and conditions of annexation by the City, for full or limited purposes, of the territory in the District.
- (B) The consent of the City to the creation of a municipal utility district may provide that the City and the municipal utility district shall enter into an allocation agreement relating to annexation by the City of the territory in the municipal utility district. An allocation agreement entered into under this Subsection:

- (1) must be in compliance with the applicable law of this state; and
 - (2) may include a term or condition that is determined by the City to be necessary.
- (C) On annexation of the territory in a District, the City may:
- (1) permit the District to continue to exist in accordance with the laws of the state;
 - (2) dissolve the District in accordance with the laws of the state; or
 - (3) permit the District to continue to exist in accordance with an allocation agreement entered into in compliance with the laws of the state.

Division 23-10B-4: Out-of-district Service

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23-10B-4010 Applications Not Covered by This Section

- (A) This Division does not apply to an application requesting that a District provide water or wastewater utility service to a site outside of the boundaries of the District if the site proposed to be served by the District:
 - (1) is located in the service area of Austin Water;
 - (2) is separated geographically from City water or wastewater facilities by the District; and
 - (3) can be served by a facility:
 - (a) financed by contract bonds; and
 - (b) located in or immediately adjacent to the District.
- (B) A person requesting service described in Subsection (A) must apply under Division 23-10A-2 (Extension of Service, General Provisions) and Division 23-10A-3 (Extension of Service, Cost Participation).

23-10B-4020 Application For Out-of-District Service

- (A) An application requesting that a District provide water or wastewater utility service to a site outside of the boundary of the District must be filed with the City Manager and the Water Utility Director by the person receiving the service.
- (B) An application filed under this Division includes each document required by City rules.

23-10B-4030 Notice of Application

On receipt of an application filed under this Division, the City Manager shall notify the:

- (1) Council;
- (2) City Clerk; and
- (3) presiding officer of the Planning Commission.

23-10B-4040 Board and Commission Review; Council Action

- (A) This Section does not apply to an application filed under this Division that meets the criteria established in Section 23-10B-1050(A) (Administrative Approval Of Out-Of-District Service Application).
- (B) The City Manager shall submit an application filed under this Division to each of the following boards and commissions determined by the City Manager to have an interest in the application:
 - (1) Parks and Recreation Board;
 - (2) Urban Transportation Commission;
 - (3) Water and Wastewater Commission; or
 - (4) Environmental Commission.
- (C) The City Manager shall submit an application filed under this Division to the Planning Commission.
- (D) Each department, board, or commission that reviews an application filed under this Division shall send its recommendation on the application to the Council not later than the 60th day after the date the application is filed with the City Manager.
- (E) The Council shall act on an application filed under this Division not later than the date of the second regular Thursday meeting of the Council that is to be held after the date that the Council receives the final recommendations required by Subsection (D).

23-10B-4050 Administrative Approval of an Out-of-District Service Application

- (A) The City Manager may approve an application filed under this Division if:
 - (1) the site that is to receive the proposed water or wastewater service is not:
 - (a) in or proposed to be brought into the service area of Austin Water;
 - (b) in an area:
 - (i) that could be served by a facility for which the issuance of a water or wastewater bond by the City or District has been authorized; or
 - (ii) in which the City or a District has called an election on the issuance of a water or wastewater bond; or
 - (c) in a District or the certificated service area of a private utility approved by the Texas Commission on Environmental Quality unless the District or private utility has released the site; and
 - (2) the District proposing to provide the water or wastewater service is not connected or proposed to be connected to:
 - (a) the water or wastewater system of the City; or
 - (b) a water or wastewater facility to which the City has made a capital contribution.
- (B) An applicant requesting administrative approval of an application filed under this Division must submit:

- (1) documentation demonstrating that the proposed water or wastewater service complies with Subsection (A); and
- (2) 10 copies of each document required by City rules to accompany the application.
- (C) The City Manager must approve or deny an application filed under this Division before the 15th day after the date the application is filed.

23-10B-4060 Emergency Out-of-District Service

- (A) To prevent or alleviate a danger to the public health and safety, the City Manager may approve a request that a District provide water or wastewater utility service to a site outside of the boundary of the District.
- (B) The Council shall review a request made under Subsection (A) during the first regular Thursday meeting of the Council that is held after the City Manager approves the request.

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Division 23-10B-5: Amendment to a Consent Document or an Agreement with a Water District

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23-10B-5010 Application for Amendment of Agreement

- (A) An application to amend a consent document or an agreement between a District and the City must be filed with the City Manager by a party to the document or agreement or a successor in interest to that party.
- (B) An application filed under this Section includes each document required by City rules.

23-10B-5020 Notice of Application

- (A) On receipt of an application filed under this Section, the City Manager shall notify the:
 - (1) Council;
 - (2) City Clerk; and
 - (3) presiding officer of the Planning Commission.
- (B) If the application filed under this Division requests a revision of a land use plan, the City Manager shall give notice of the application under Division 23-2C-5 (Notice Of Applications and Administrative Decisions).

23-10B-5030 Board and Commission Review; Council Action

- (A) This Section does not apply to an application for a revision to a land use plan that meets the criteria established in Section 23-10B-5040(A) (Administrative Approval Of A Revision To A Land Use Plan).
- (B) The City Manager shall submit an application filed under this Division to the Planning Commission.
- (C) The City Manager shall submit an application filed under this Division to each of the following boards and commissions determined by the City Manager to have an interest in the application:
 - (1) Parks and Recreation Board;
 - (2) Urban Transportation Commission;

- (3) Water and Wastewater Commission; or
- (4) Environmental Commission.
- (D) Each department, board, or commission that reviews an application filed under this Division shall send its recommendation on the application to the Council not later than the 60th day after the date the application is filed with the City Manager.
- (E) The Council shall act on an application filed under this Division not later than the date of the second regular Thursday meeting of the Council that is to be held after the date that the Council receives the final recommendations required by Subsection (D).

23-10B-5040 Administrative Approval of a Revision to a Land Use Plan

- (A) The City Manager shall approve a revision to an approved land use plan if the proposed revision:
 - (1) includes only land uses shown on the approved land use plan, unless the City Manager determines that a proposed use would be a permitted use in the most restrictive zoning district of the City that would permit the use on the site covered by the revision; and
 - (2) will not:
 - (a) increase residential density above the maximum residential density established by the approved land use plan;
 - (b) increase the area of nonresidential land use above the maximum established by the approved land use plan;
 - (c) increase development intensity in a water quality zone above the intensity shown on the approved land use plan;
 - (d) increase the City's commitment for water and wastewater service above the level required to serve the uses identified on the approved land use plan or the level established in an agreement with the City;
 - (e) require an amendment to the Transportation Plan or result in the misalignment of a road connecting to land adjacent to land in an approved preliminary plan or final plat; or
 - (f) in the opinion of the City Manager:
 - (i) increase traffic above the capacity of existing or funded roadways in the territory of the District;
 - (ii) be incompatible with land uses in or adjacent to the District; or
 - (iii) negatively affect a publicly dedicated parkland or a greenbelt area.
- (B) Under Subsection (A)(2)(b), land that is dedicated or used for a public purpose or a civic use is considered to be a residential land use.

23-10B-5050 Contents of Application for Revision of Land Use Plan

An applicant requesting administrative approval of a revision of a land use plan must submit:

- (1) documentation demonstrating that the proposed revision complies with Section 23-10B-5040(A) (Administrative Approval Of A Revision To A Land Use Plan);
- (2) a tabular comparison of the approved and proposed land use plan comparing:
 - (a) each utility requirement as described in the relevant consent agreement;
 - (b) land uses by acreage;
 - (c) the number of dwelling units by residential category; and
 - (d) residential density in each residential category; and
- (3) 15 folded copies of the proposed land use plan.

23-10B-5060 Administrative Action on Application to Revise Approved Land Use Plan

- (A) The City Manager must approve or deny a revision to an approved land use plan before the 21st day after the date the application was filed.
- (B) On approval of a revision to an approved land use plan, the person who applied for approval of the revision shall submit a copy of the revised land use plan to the City Manager. The copy must be on mylar and capable of being reproduced.
- (C) The effective date of a revised land use plan approved under this Section is the date that the plan is signed by the City Manager.

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Division 23-10B-6: Water District Bond Issuance

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23-10B-6050	Department and Commission Review	1
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23-10B-6010 **Applicability**

This Division applies to a District created with the consent of the City after March 20, 1980, that issued bonds after December 19, 1985.

23-10B-6020 **City Approval Required**

A District may not issue a bond unless the Council approves the issuance of the bond.

23-10B-6030 **Application for Approval of a District Bond**

A District that proposes to issue bonds must file an application for approval of the issuance with the City Manager. An application filed under this Section includes all documents required by City rules.

23-10B-6040 **Notice of Application**

On receipt of an application filed under Section 23-10B-6030 (Application For Approval of a District Bond) the City Manager shall:

- (1) notify the Council and the presiding officer of the Water and Wastewater Commission of the application; and
- (2) send one copy of the application to the presiding officer of the Water and Wastewater Commission.

23-10B-6050 **Department and Commission Review**

(A) The City Manager shall designate departments of the City to review the application.

- (B) Each designated department shall complete its review of the application not later than the 45th day after the date the application is filed.

23-10B-6060 Auditor Review; Release of Official Statement

- (A) The City Auditor shall review the preliminary and final official statements of the District that include the City's financial statements and audited opinion.
- (B) Until the City Auditor completes the required review, an official statement described in Subsection (A) may not be disclosed to a person, other than:
 - (1) an employee of the City; or
 - (2) a consultant who is assisting the District to structure the issuance of a District bond.

23-10B-6070 Action on Application by City Council

The Council shall act on an application filed under this Division not later than the date of the second regular Thursday meeting of the Council held after the date the Council receives the recommendations of the Water and Wastewater Commission and each designated department of the City.

Article 23-10C: Water and Wastewater Capital Recovery Fees

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Division 23-10C-1: General Provisions

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23-10C-1010	Applicability	1
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23-10C-1030	Accounts	1

23-10C-1010 **Applicability**

- (A) Except as provided by this Section, this Article applies to new development in the water and wastewater impact fee service area.
- (B) The impact fee applicable to new development outside the water and wastewater impact fee service area shall be set by agreement. The agreement may provide the amount of the fee, the method of collection of the fee, and other terms and conditions.
- (C) A contract for water or wastewater service to a wholesale customer or other political subdivision of the State of Texas shall provide for collection of impact fees and transmittal of collections to the City of Austin in accordance with this Article.
- (D) This Article does not supersede a contract with a political subdivision or wholesale customer that was in effect on June 18, 1990, and which provides for the collection of impact fees and the transmittal of collections to the City.

23-10C-1020 **Adoptions by Reference**

- (A) The following are adopted and incorporated by reference:
 - (1) Impact Fee Land Use Assumptions;
 - (2) the designation of the water and wastewater impact fee service area; and
 - (3) Impact Fee Capital Improvements Plan for Water and Wastewater Facilities.
- (B) Documents adopted by reference shall be kept on file by the City Clerk.

23-10C-1030 **Accounts**

- (A) The Director of the Financial and Administrative Services Department shall establish accounting controls to ensure compliance with Section 395.024 of the Local Government Code.
- (B) The Director of the Financial and Administrative Services Department shall establish separate interest-bearing accounts for impact fees collected for water facilities and for impact fees collected for wastewater facilities.
- (C) Funds may be disbursed as reasonably necessary to carry out the purposes of this Article; provided that a fee shall be expended within a reasonable period of time, not to exceed 10 years, from the date the fee is deposited into the account.

- (D) The Director of the Financial and Administrative Services Department shall maintain records for each account that:
- (1) show the source and disbursement of fees;
 - (2) the number of service units for which fees are received; and
 - (3) ensure that refunds from each account are properly made.

Division 23-10C-2: Fee Established

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23-10C-2050	Collection of Fee	2
23-10C-2060	Installment Payment of Impact Fee	2

23-10C-2010 Assessment and Collection of Impact Fees Authorized

- (A) This Article levies a water impact fee and a wastewater impact fee to be assessed and collected in accordance with Chapter 395 of the Local Government Code.
- (B) The Water Utility Director shall collect the water impact fee and the wastewater impact fee on new development in accordance with Chapter 395 of the Local Government Code and this Article.

23-10C-2020 Assessment

- (A) This Section applies to the assessment of the water impact fee and the wastewater impact fee.
- (B) This Article assesses an impact fee on new development at the time of final plat approval.
- (C) If an applicant obtains a final approval for replatting, this Article assesses an impact fee at the time of the replatting.
- (D) For a development which received final plat approval before June 18, 1990, and which is not replatted, this Article assesses an impact fee as of June 20, 1990.
- (E) An application for an amended plat made under Local Government Code Section 212.016 or the City's subdivision rules is not subject to a reassessment of the impact fee.
- (F) The Texas Local Government Code provides for an exception to platting and Section 25-4-2 of the City's Code outlines authorized exceptions from platting requirements. The date that the property has applied and been approved by the City as exempted from the formal subdivide/platting process will be the date that is used to assess water and wastewater impact fees.

23-10C-2030 Amount of Fee

The amount of the impact fee to be assessed for each service unit and the amount of the impact fee to be collected for each service unit shall be set by ordinance.

23-10C-2040 Computation of Impact Fees to be Collected

- (A) The impact fees to be collected for new development are calculated by:
 - (1) adding the number of service units attributable to all meters purchased for the development;
 - (2) multiplying the total number of service units by the fee to be collected for each service unit for water or wastewater service; and
 - (3) subtracting any applicable credits or discounts allowable under this Article for water or wastewater service from the product derived under Subsection (A)(2).
- (B) If the property owner increases the number of service units for a development, the additional impact fees to be collected for the new service units shall be determined using the method set out in this Section, and the fees and credits or discounts in effect at the time the additional meters are purchased. The additional fee shall be collected at the time the additional meters are purchased.
- (C) If the property owner decreases the number of service units for a development under an unexpired site plan, the property owner is entitled to a credit of the impact fee at that property for the amounts represented by the decrease in service units based on the fee to be collected for each service unit and credits or discounts in effect at the time the fee was paid.

23-10C-2050 Collection of Fee

- (A) Except as provided by Section 23-10C-2060 (Installment Payment Of Impact Fee), or by a contract with a wholesale customer or with another political subdivision, the impact fee due for new development shall be collected:
 - (1) at the time the City approves a site plan or building plan review; or
 - (2) for land platted outside the corporate boundaries of the City, at the time an application for a tap permit is filed.
- (B) A tap permit may not be issued unless the applicant has paid the impact fee.

23-10C-2060 Installment Payment of Impact Fee

- (A) The Water Utility Director may allow an applicant to make installment payments of an impact fee in accordance with this Section.
- (B) The applicant must make written application for approval to make payment of an impact fee on an installment basis on a form promulgated for this purpose by the Water Utility Director.
- (C) The applicant must be:
 - (1) the owner of a single family residence occupied by the applicant as a homestead; or
 - (2) a community garden that is not a qualified community garden.

- (D) The applicant must demonstrate that the payment of the full amount of the impact fee at the time the tap permit is approved will cause the applicant undue financial hardship in accordance with standards promulgated by the Water Utility Director.
- (E) The property for which connection is sought:
 - (1) may not be used for a commercial or industrial purpose;
 - (2) must be within the City's impact fee service area; and
 - (3) must be a legal lot in compliance with applicable state law and local subdivision requirements.
- (F) An applicant who is eligible under this Section to pay an impact fee on an installment basis shall:
 - (1) pay a minimum of 10 percent of the applicable impact fee and all connection fees at the time the tap permit is approved; and
 - (2) execute an installment payment agreement on a form promulgated by the Water Utility Director and approved by the City Attorney which must contain, at a minimum, the following provisions:
 - (a) the written promise of the applicant to pay the balance of the impact fee owed in equal annual installments over a payment term not to exceed five years at an interest rate of seven percent with each installment due and payable on the anniversary date of the approval of the tap permit until paid;
 - (b) terms and conditions as the City Attorney shall deem favorable, necessary, or required to enforce the agreement in the event of a default, including the right to disconnect service upon default and any other remedies authorized by law; and
 - (c) other provisions the City Attorney considers necessary to document the transaction, protect the interests of the City, and comply with applicable law.

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Division 23-10C-3: Determination of Service Units

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23-10C-3020	Fire Demand Meters	1

23-10C-3010 Service Units Where A Meter is Purchased

- (A) This Section applies to the determination of service units for both water and wastewater service.
- (B) Service units shall be determined by the size and type of the water meter purchased according to the following schedule:

Table 23-10C-3010.A		
Meter Size (Inch)	Type	Service Units
5/8	Positive Displacement	1
¾	Positive Displacement	1.5
1	Positive Displacement	2.5
1½	Positive Displacement	5
1 ½	Turbine	9
2	Positive Displacement	8
2	Turbine	16
3	Compound	17.5
3	Turbine	35
4	Compound	30
4	Turbine	65
6	Compound	67.5
6	Turbine	140
8	Turbine	240
10	Turbine	350
12	Turbine	440

23-10C-3020 Fire Demand Meters

- (A) No service units shall be attributed to a tap that provides only fire protection capacity.
- (B) If a meter is purchased to provide both fire and domestic demand, the number of service units shall be determined based upon the size and type of meter that would be required to provide for domestic demand only as determined by the American Water Works Association or its successor agency.

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Division 23-10C-4: Exemptions

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23-10C-4060	Exemption for City-Supported Community Gardens	2
23-10C-4070	Exemption for Certain Affordable Housing.	3

23-10C-4010 Exemptions from Impact Fee

- (A) An impact fee may not be collected for a connection that is used to provide only fire protection capacity.
- (B) An impact fee may not be collected for a connection for a state owned building or property that is entirely occupied by a state agency.
- (C) An impact fee may not be collected for non-residential construction funded, wholly or partly, by the City's community development block grant program.
- (D) An impact fee may not be collected for:
 - (1) the exchange of an existing 5/8-inch meter serving an existing duplex residence for two 5/8-inch meters serving the two dwelling units of the duplex residence, provided there are no additions or modifications to the existing duplex residence other than those necessary to comply with this Article; or
 - (2) the exchange of a connection for another connection, if the exchange will result in an equivalent or lesser number of service units on the property for which the connection was originally purchased. The number of service units to be exchanged shall be determined in accordance with Section 23-10C-3010 (Service Units Where A Meter Is Purchased).
- (E) If one 5/8-inch meter is serving more than one single-family detached residence on the same lot, the owner of one of the single-family detached residences being served by the existing meter may obtain a separate 5/8-inch meter without paying an additional impact fee.

23-10C-4020 Central System Cutover Exemption

- (A) At the time of the connection to the City's water system, a water impact fee may not be collected for the existing development that receives service from a central water supply system that is:
 - (1) owned by a person other than the City; and

- (2) is to be connected to the City's water system.
- (B) At the time of the connection to the City's wastewater system, a wastewater impact fee may not be collected for the existing development that receives service from a wastewater treatment plant that is:
 - (1) owned by a person other than the City; and
 - (2) is to be connected to the City's wastewater system.

23-10C-4030 Wastewater Impact Fee Exemption for Consumption Meter

A wastewater impact fee may not be collected for a meter used to monitor water that is used exclusively for consumption and such water cannot enter the City's wastewater system.

23-10C-4040 Water Impact Fee Exemptions for Annexed Property

A water impact fee may not be collected at the time a City tap permit is paid on a water connection for property full-purposed annexed for a period of six years from the date of annexation, if residential structure(s) on the property were served by an existing on-site water well. The water impact fee waiver shall only apply to the same residential structure(s) on the property at the time of annexation.

23-10C-4050 Wastewater Impact Fee Exemptions for Annexed Property

A wastewater impact fee may not be collected at the time a City tap permit is paid on a wastewater connection for annexed property for a period of six years from the date of annexation, if residential structure(s) on the property were served by an existing on-site sewage facility. The wastewater impact fee waiver shall only apply to the same residential structure(s) on the property at the time of annexation.

23-10C-4060 Exemption for City-Supported Community Gardens

- (A) In this Section, city-supported community garden and garden permit have the meanings assigned by Section 14-7-1 (Definitions) of the City Code.
- (B) An impact fee may not be assessed on a city-supported community garden.
- (C) The Director of the department designated under Section 14-7-1 (Definitions) shall determine if the parcel of land is issued a garden permit.
- (D) If the garden permit on a parcel of land terminates, the Director of the department designated under Section 14-7-1 (Definitions) shall notify the Water Utility Director and the Planning Director of the change in status.
- (E) After a garden permit terminates on a parcel of land and if the tap is not removed in accordance with Section 23-10A-4090 (Temporary Tap Permit for a City-Supported Community Garden):

- (1) a user of the parcel of land shall pay any impact fees on the parcel of land within 30 calendar days; and
- (2) if the impact fee is not paid as required under Paragraph (1), the Water Utility Director must notify the user that:
 - (a) if the parcel of land had a temporary exemption from the platting requirements before the garden permit was terminated, the user must plat the parcel of land before Austin Water can continue service;
 - (b) the delinquent impact fee on the parcel of land must be paid within 15 calendar days; and
 - (c) the failure to secure legal lot status or to pay the impact fee is grounds for terminating water service; and
- (3) if, following the notice under Paragraph (2), legal lot status is not obtained or the impact fee is not paid as required under Paragraph (2), the water service may be disconnected.

23-10C-4070 Exemption for Certain Affordable Housing

- (A) The community development officer may exempt not more than 1,500 service units (as prescribed by Austin Water) of affordable housing constructed each fiscal year from the requirement to pay impact fees under this Article. Service units of affordable housing within the development known as the Robert Mueller Municipal Airport development that are granted exemptions from paying impact fees do not count against the annual cap of 1,500.
- (B) The community development officer shall establish guidelines for the selection of the service units to receive an exemption under this Section. The guidelines must include a requirement for a written application.
- (C) To be eligible for an exemption under this Section, affordable housing must:
 - (1) meet design and construction guidelines established by the community development officer for habitability, affordability, accessibility, water conservation, and energy efficiency;
 - (2) be served by existing City infrastructure and services; and
 - (3) be a newly constructed single family home, condo, townhome, or multifamily housing unit located within the corporate limits of the City that is:
 - (a) approved for assistance under an affordable housing program funded with Community Development Block Grant or federal HOME program assistance funds administered by the City;
 - (b) approved for assistance under a program for affordable housing construction funding or down payment assistance administered by the Austin Housing Finance Corporation; or
 - (c) approved under guidelines for non-assisted affordable housing units established by the community development officer that meet the requirements of this Section.

- (D) To receive an exemption under this Section, an applicant who is approved for an exemption must provide to the community development officer an agreement, a restrictive covenant, a deed of trust, a promissory note, or other documents determined to be necessary by the City Attorney to establish an enforceable obligation by the applicant to:
 - (1) pay to the City an amount equal to the impact fee otherwise applicable to the housing unit if the applicant does not comply with this Section and applicable guidelines;
 - (2) reserve by covenant the applicable affordable dwelling units for the duration of the affordability period prescribed by Subsection (E); and
 - (3) pay liquidated damages that will fairly compensate the City for any breach.
- (E) To retain an exemption under this Section, a unit of affordable housing must comply with the requirements of Article 23-3E (Affordable Housing Incentive Program).
- (F) If an applicant who receives an exemption under this Section does not comply with Subsection (E), defaults on its obligations under documents executed under Subsection (D), or does not perform in accordance with the conditions for receipt of the exemption, the City may initiate legal proceedings to recover the impact fees that would have applied to the housing unit and damages. Funds recovered for impact fees shall be deposited in the impact fee account of the Austin Water. Damages collected to compensate the City for loss of affordable housing units shall be deposited into the S.M.A.R.T. Housing CIP Fund account of the Neighborhood Housing and Community Development Department.
- (G) Before the Water Utility Director may issue a tap permit authorizing connection to the City water or wastewater system for a property receiving an exemption under this Section, the community development officer must provide a written certification to the Water Utility Director identifying each service address of the affordable housing unit.
- (H) The community development officer may revoke a certification under Subsection (G) if the applicant does not finish construction of the approved affordable housing unit:
 - (1) within 15 months after certification; or
 - (2) for a multifamily housing unit, 24 months after certification.
- (I) This Section does not require a refund by Austin Water of impact fees to the entity that previously paid.
- (J) An exemption under this Section may not be assigned or transferred by the applicant to another property.

Division 23-10C-5: Discounts and Adjustments

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23-10C-5010 Refunds

- (A) If a refund is made under Section 395.025 of the Local Government Code, the tap permit shall be cancelled and all connection fees previously collected shall be refunded. If a building permit has been issued for the property, the canceled building permit must be presented before the refund may be made.
- (B) If a previously purchased but uninstalled water meter for which the impact fee has been paid is replaced with a smaller meter, the City shall refund a portion of impact fee payments based on the difference in service units of the two meter sizes and the fee for each service unit at the time of the original fee payment.
- (C) A request for a refund shall be submitted to the Water Utility Director on a form provided by the City. The Water Utility Director must respond to the requestor with a decision on the request not later than the 31st day after the receipt of the request. The response must include the reasons for the decision. If a refund is due to the requestor, the Water Utility Director shall notify the Director of Financial and Administrative Services that a refund payment is due to the requestor.

23-10C-5020 Expiration of Tap Permit

- (A) An impact fee may not be refunded if the tap permit for which it is paid expires.
- (B) If the tap permit or building permit for a property for which an impact fee has been paid expires, and a new application is filed for the same property, the applicant is entitled to receive a credit in the amount of the fee paid.
- (C) Except as provided by Subsection (B), an impact fee is not transferable to a property or service unit other than the one for which it is paid.

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Article 23-10D: Reclaimed Water

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23-10D-1010 Applicability

This Article applies in the planning jurisdiction of the City of Austin except as otherwise provided in this Article.

23-10D-1020 Availability of Reclaimed Water Service

- (A) The Water Utility Director may make reclaimed water available to properties within the service area as the Utility extends the reclaimed water distribution system.
- (B) The Water Utility Director shall prescribe design requirements for reclaimed water facilities, the manner of construction, the method of operation, and conditions of service.
- (C) The Water Utility Director may refuse to provide service for the following reasons:

- (1) reclaimed water service would be detrimental to the potable water system;
 - (2) City supply of treated wastewater is inadequate to meet the anticipated needs of the proposed use area;
 - (3) required fees have not been paid;
 - (4) reclaimed water service to the area would not benefit the City;
 - (5) the proposed use is inappropriate for reclaimed water; or
 - (6) known safeguards are not in place to protect the public health or the environment.
- (D) In determining whether to provide reclaimed water service to an applicant, the Water Utility Director may consider the following factors:
- (1) the existence of a reclaimed water main adjacent to or near the premises of an applicant; and
 - (2) the applicant's offer to pay the cost of service extension.

23-10D-1030 Reclaimed Water Service Application

An applicant for a subdivision plat, building permit, site plan, water service extension, or water connection within the service area may submit an application to use reclaimed water. The Water Utility Director shall prescribe an application form for reclaimed water service.

23-10D-1040 Application Review

- (A) The Water Utility Director shall review an application for reclaimed water service and investigate the proposed service. The investigation may include a site visit with the user to determine the feasibility of reclaimed water service.
- (B) The Water Utility Director shall determine whether the application meets the requirements of this Article and of the Commission.

23-10D-1050 Approval Required for System Design and Operation

- (A) A user must submit design drawings and specifications to the Water Utility Director for approval before the user may construct or retrofit an onsite facility that will use or receive reclaimed water.
- (B) A user must submit to the Utility drawings of the final installed onsite reclaimed water system and the entire approved use area before beginning operation.

23-10D-1060 Backflow Prevention

A user must install a backflow prevention assembly as identified by Austin Water before reclaimed water service can be provided.

23-10D-1070 Storage

A user must design storage facilities used for storing reclaimed water in accordance with 30 Texas Administrative Code, Chapter 210.

23-10D-1080 Reclaimed Water Agreement

- (A) If the Water Utility Director approves the application, the Utility may enter a reclaimed water service agreement with a user.
- (B) A reclaimed water agreement must incorporate the requirements of this Article and additional utility standards, if any, prescribed by the Water Utility Director.
- (C) The user must sign the reclaimed water agreement acknowledging that the user is responsible for onsite activities and must agree to hold the City harmless from claims arising out of user's operation and maintenance of reclaimed water service.

23-10D-1090 Discontinuance of Service

- (A) The City may discontinue reclaimed and potable water service to a user if the user:
 - (1) violates this Article;
 - (2) fails to pay water bills;
 - (3) tampers with the service;
 - (4) cross-connects with a potable water source;
 - (5) refuses to permit an authorized City representative to enter its premises to inspect the user's reclaimed water system; or
 - (6) performs an act that may be detrimental to the water or wastewater system.
- (B) If a user vacates a service address, the user must give the City notice before the date the user wants utility service to be disconnected.
- (C) A user who seeks to discontinue service must pay for the reclaimed water used until the service is discontinued.
- (D) A user may not reconnect a discontinued service without the Water Utility Director's approval.
- (E) If a user reconnects a discontinued service without the Water Utility Director's approval, the Utility may remove the service and charge an additional fee.
- (F) The Utility may not charge a fee for discontinued reclaimed water service.
- (G) A user may apply for reinstatement of service after paying the fees or charges authorized by this Article.
- (H) The Water Utility Director shall charge a fee for service reinstatement.

23-10D-1100 Utility Responsibilities

- (A) The Utility and its authorized agents, employees, or contractors are responsible for the operation, management, and control of the offsite facilities and the oversight of reclaimed water.
- (B) The Utility shall:
 - (1) obtain necessary Commission permits for the offsite use of reclaimed water under 30 Texas Administrative Code, Chapter 210;
 - (2) conduct reclaimed water quality assessments to comply with the requirements of the regulatory agencies; and
 - (3) inspect the user's onsite facilities and their operations for conformance with this Article.
- (C) Before the Utility requests Council approval to construct new reclaimed water satellite facilities the Utility shall request the recommendations of the Water and Wastewater Commission, Environmental Commission, and Land Use Commission.

23-10D-1110 User Responsibilities

- (A) A user may not make a connection to existing Utility facilities without the approval of the Water Utility Director.
- (B) A user is responsible for constructing an onsite service line to an established point of connection.
- (C) A user shall provide supervision of onsite facilities to assure compliance with this Article and Chapter 15-1 (Cross-Connection Regulations) of the City Code.
- (D) A user shall provide access at reasonable times for inspections.

23-10D-1120 Use of Reclaimed Water

- (A) A user may use reclaimed water for the following purposes:
 - (1) turf and general landscape irrigation;
 - (2) non-food processing industrial processes;
 - (3) non-residential toilet and urinal flushing;
 - (4) construction activities;
 - (5) vehicle washing;
 - (6) air conditioning cooling towers; and
 - (7) other uses authorized by the Water Utility Director.
- (B) A user may use reclaimed water only in areas authorized by the Water Utility Director.
- (C) A user may not give, sell, trade, or transfer reclaimed water to another area without the written approval of the Water Utility Director.

- (D) A user may not discharge airborne or surface reclaimed water from the user's property, other than to a wastewater treatment system or wastewater collection system, without obtaining a permit from the Commission authorizing the discharge. The user must notify the Utility of the permit application.
- (E) A user who uses reclaimed water for cooling or processing must discharge the water to a sanitary sewer or use another method of discharge approved by the Water Utility Director.
- (F) A user may not interrupt reclaimed water service in a portion of the Utility system without the approval of the Water Utility Director. The Water Utility Director may direct, inspect, and determine the time for an interruption of service to an existing system.
- (G) Reclaimed water used for domestic, cooling, or other non-irrigation purposes will be treated the same as potable water as it relates to wastewater billing.

23-10D-1130 Inspection of Reclaimed Water Construction

- (A) The Utility may inspect, remove, or secure devices installed by the user to control reclaimed water.
- (B) Utility personnel may inspect during normal business hours without notice to the user.
 - (1) The Utility and regulatory agencies may make periodic unannounced inspections of the onsite reclaimed water system.
 - (2) The user and its operations personnel shall cooperate with inspectors and assist in performing operational tests.
- (C) An onsite reclaimed water system must pass an operational test before the Utility may approve the system.
- (D) The Water Utility Director may grant user final approval for reclaimed water service if:
 - (1) the Water Utility Director approves the drawings;
 - (2) the system passes an inspection and cross connection control test; and
 - (3) the user makes corrections required by the Utility.

23-10D-1140 Identification of Reclaimed Water Facility

A user must identify reclaimed water facilities in accordance with utility standards.

23-10D-1150 Prohibitions

A user may not:

- (1) use reclaimed water for a purpose not approved in the reclaimed water agreement;
- (2) use or apply reclaimed water for a purpose, including approved uses, directly or by windblown spray, to an area other than that approved in the reclaimed water agreement;

- (3) use hose bibs on an onsite reclaimed water system unless the Director approves the use of hose bibs; or
- (4) allow obstructions to impede access to meter boxes or other facilities.

23-10D-1160 Rates and Charges

- (A) The Utility shall charge the rate provided by separate ordinance for the following:
 - (1) reclaimed water fee;
 - (2) tap fee;
 - (3) meter set charges;
 - (4) engineering or inspection fees;
 - (5) reconnection fee; and
 - (6) service reinstatement fee.
- (B) A user of reclaimed water service must pay an additional fee set by separate ordinance for discharge of reclaimed water to the sanitary sewer.

23-10D-1170 Meter Readings

If a reclaimed water meter fails to register or registers inaccurately, the Utility may charge an average daily consumption rate based on a reading of the meter when in use and registering accurately during the same season or as close to the same season as is reasonably possible.

23-10D-1180 Billing

- (A) The Utility may bill for reclaimed water monthly.
- (B) An active account becomes delinquent when full payment is not received in the Utility customer service office by the due date on the bill.
- (C) The Utility may discontinue a delinquent account, regardless of location, until the billing is paid.

23-10D-1190 Water Right

The delivery of reclaimed water by the Utility and the acceptance and use of the reclaimed water by the user is not a transfer by the Utility or an acquisition by the user of a water right.

23-10D-1200 Offenses

- (A) A person commits an offense if the person knowingly violates any provision of this Article.

- (B) An offense under this subsection is a Class C misdemeanor punishable by a fine not to exceed \$2000.
- (C) Each instance of a violation of this Article is a separate offense.

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Article 23-10E: Drainage

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23-10E-1010 Intent

Austin’s unique combination of intense rainstorms, steep slopes, and slow-draining soils makes it especially prone to severe flooding conditions. On undeveloped land, stormwater runoff is dispersed across the landscape, where it is slowed and absorbed by vegetation, soil, wetlands, and uneven terrain, especially along a waterway’s natural banks and floodplains. When development increases impervious cover, removes these natural features, and pipes or channelizes stormwater flows, the land loses this natural storage capacity and stormwater runoff travels more quickly into receiving streams, rivers, and storm drains, leading to increased flooding and erosion. Furthermore, development within the floodplain or erosion hazard zone has the potential for placing people, property, and infrastructure at risk. Drainage regulations ensure the health, safety, and welfare of the public and properties through management of stormwater, preservation of waterways, and control of soil erosion such that no adverse impacts occur as a result of development.

23-10E-1020 Applicability Of Article

- (A) Except as provided in Subsection (B), this Article applies in the planning jurisdiction.
- (B) For a preliminary plan, final plat, or subdivision construction plan in the portion of the City’s extraterritorial jurisdiction that is within Travis County:
 - (1) this Article does not apply; and
 - (2) Title 30 (Austin/Travis County Subdivision Regulations) governs.

23-10E-1030 Obstruction Of Waterways And Drainage Easements Prohibited

Unless authorized by a development application approved in compliance with Title 23, a person may not place, or cause to be placed, an obstruction in a waterway or drainage easement.

23-10E-1040 Duty To Maintain Unobstructed Waterways And Drainage Easements

The person in control of real property traversed by a waterway or drainage easement shall keep the waterway or drainage easement free from an obstruction that is not authorized by a development application approved in compliance with Title 23. The City may access the drainage easement to perform necessary maintenance, but is not obligated to maintain the drainage easement.

23-10E-1050 Standing Water Declared A Nuisance

A pool of standing water in a waterway that is caused by an unauthorized obstruction in the waterway is declared to be a nuisance.

23-10E-1060 Computation Of Stormwater Runoff

Stormwater runoff must be computed on the basis of a fully developed contributing drainage area or watershed as determined in compliance with the Drainage Criteria Manual.

Division 23-10E-2: Drainage Studies; Floodplain and Floodway Delineation

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23-10E-2010 Director Authorized To Require Drainage Studies

- (A) The Director may require the applicant to provide, at the applicant's expense and as a condition for development application approval, a drainage study for the total area to be ultimately developed.
- (B) The drainage study must be in compliance with the Drainage Criteria Manual.
- (C) If a drainage study is required by this Section, the City may not accept for review a development application for any portion of the proposed development until the Director has received the required drainage study.

23-10E-2020 Director Authorized To Require Erosion Hazard Zone Analysis

- (A) The Director may require the applicant to provide, at the applicant's expense and as a condition for development application approval, an analysis to establish the erosion hazard zone if the proposed development is:
 - (1) within 100 feet of the centerline of a waterway with a drainage area of 64 acres or greater; or
 - (2) located where significant erosion is present.
- (B) The erosion hazard zone analysis must be in compliance with the Drainage Criteria Manual.
- (C) If an erosion hazard zone analysis is required by this Section, the City may not accept for review a development application for any portion of the proposed development until the Director has received the required erosion hazard zone analysis.

23-10E-2030 Floodplain Maps, Delineation, And Depiction

- (A) The Watershed Protection Department shall designate and maintain official floodplain maps.
- (B) If an official floodplain map is not delineated, the applicant shall calculate the boundaries of the 100-year floodplain in compliance with the Drainage Criteria Manual and submit the calculation to the Director for approval.
- (C) If the Director determines that FEMA regulations require a submission to the agency of a request for a flood insurance rate map revision, the Director may require that the revision request to FEMA be submitted by the applicant.

- (D) The applicant shall depict, as applicable:
- (1) on a preliminary plan or subdivision construction plan:
 - (a) a 100-year floodplain;
 - (b) a FEMA floodplain; and
 - (c) a drainage easement or proposed drainage easement;
 - (2) on a final plat:
 - (a) a drainage easement; and
 - (b) a portion of a FEMA floodplain that is outside a drainage easement;
 - (3) on a site plan, including site plan exemption or general permit:
 - (a) a 100-year floodplain;
 - (b) a FEMA floodplain; and
 - (c) a drainage easement; or
 - (4) on a residential building permit:
 - (a) a 100-year floodplain;
 - (b) a FEMA floodplain; and
 - (c) a drainage easement.
- (E) If a portion of a FEMA floodplain is outside a drainage easement, the applicant shall, on a final plat:
- (1) identify the portion of the FEMA floodplain that is outside the drainage easement, including the community and panel number of the flood insurance rate map; and
 - (2) include a note that:
 - (a) refers the reader to federal regulations governing development in a FEMA floodplain;
 - (b) states that flood insurance may be required; and
 - (c) describes efforts to revise the flood insurance rate map.

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23-10E-3010 Criteria For Approval Of Development Applications

- (A) A development application may not be approved unless:
 - (1) the proposed development application demonstrates sufficient capacity for the design flood, as determined in compliance with the Drainage Criteria Manual;
 - (2) each proposed improvement is sufficiently strong to resist:
 - (a) external pressure caused by earth or building; and
 - (b) internal pressure or abrasion caused by water or debris;
 - (3) the proposed grades will not permit stormwater to gather in a pool that may become stagnant, excluding variable pools in creek beds as a result of natural channel design;
 - (4) temporary and permanent measures to control erosion are sufficient to minimize siltation of the waterway, as determined in compliance with the Environmental Criteria Manual; and
 - (5) the proposed development:
 - (a) will not result in additional adverse flooding impact on other property;
 - (b) to the greatest extent feasible, preserves the natural and traditional character of the land and the waterway located within the 100-year floodplain;
 - (c) except as provided by Subsection (C), includes on-site control of the two-year peak flow, as determined in compliance with the Drainage Criteria Manual and the Environmental Criteria Manual;
 - (d) will not result in erosion impacts on other property;
 - (e) locates all proposed improvements outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual; and
 - (f) reduces the post-development peak flow rate of discharge to match the peak flow rate of discharge for undeveloped conditions as prescribed in the Drainage Criteria Manual.
- (B) At the City's sole discretion, the Director may approve participation in the Regional Stormwater Management Program as prescribed in the Drainage Criteria Manual if the site can demonstrate:

- (1) no additional adverse impact from flood or erosion potential; and
- (2) adequate downstream flood conveyance capacity.
- (C) A proposed development may provide off-site control of the two-year peak flow, if the off-site control will not cause:
 - (1) an adverse water quality impact from increased in-stream peak flow; or
 - (2) streambank erosion.

23-10E-3020 Certificate Of Engineer Required For Certain Alterations And Improvements

- (A) The Director may not accept any plan or specification for a proposed alteration or improvement of a bed or bank of a waterway unless the plan or specification is accompanied by a certificate bearing the seal of an engineer certifying that:
 - (1) the hydraulic and structural design is adequate; and
 - (2) the proposed alteration or improvement complies with the ordinances of this City, the Drainage Criteria Manual, and the laws of this state.
- (B) Subsection (A) does not prohibit the Director from accepting a plan or specification for a minor alteration or improvement that, in the judgment of the Director, does not require certification by an engineer.

23-10E-3030 Approval Of Certain Permits And Certificates

If a development application requires the completion or partial completion of a drainage improvement before a building may be constructed on a lot, a building permit or certificate of compliance may not be issued for the lot unless the Director approves the issuance.

23-10E-3040 Design And Construction Of Drainage Facilities And Improvements

- (A) The design and construction of a drainage facility or improvement must:
 - (1) be in compliance with the Drainage Criteria Manual; and
 - (2) provide for maintenance and protection from erosion in compliance with the Environmental Criteria Manual.

23-10E-3050 Enclosed Storm Drains, Bridges, And Culverts

- (A) The Director shall approve the plans and specifications for a storm drain, bridge, or culvert.
- (B) The City may inspect the construction of each storm drain, bridge, or culvert.

23-10E-3060 Supplemental Standards For Development Applications In Certain Planning Areas

- (A) The standards of this Section supplement the criteria in Section 23-10E-3010 (Criteria for Approval of Development Applications) for development within the area bound by Oltorf to the north, the Union Pacific railroad tracks to the east, Highway 290/Ben White Boulevard to the south, and South Lamar and Manchaca Road to the west.
- (B) The Director may determine that a development will have no additional adverse flooding impact to other property, as required by Section 23-10E-3010(A)(5) (Criteria for Approval of Development Applications), only if the Director finds that:
 - (1) for development that will alter or impact stormwater flow:
 - (a) the determination is substantiated by detailed hydraulic and hydrologic analyses that model downstream impacts, within a scope deemed appropriate by the Director based on the scale and intensity of the development; and
 - (b) is submitted by an engineer under seal; and
 - (2) existing peak flow rate will be reduced by at least 10 percent for proposed development or redevelopment that would exceed 45 percent impervious cover, as calculated based on gross site area.
- (C) In addition to all other applicable standards, a development application must comply with the standards of this Section.
 - (1) Except as provided in Paragraph (C)(2), an application for development of a new or existing duplex, single-family attached, two-family residential, secondary apartment, or condominium residential use must include scaled drawings and a grading plan identifying:
 - (a) finished floor elevations;
 - (b) driveway and sidewalk locations;
 - (c) building footprint; and
 - (d) location of all stormwater discharge.
 - (2) The standards of Paragraph (C)(1) do not apply to development of a single-family residential use on a platted lot if impervious cover will not exceed 45 percent, as calculated based on gross site area.
 - (3) For development of a single-family residential subdivision:
 - (a) the construction plans for subdivision infrastructure must include a concept plan identifying building footprints and the location of sidewalks and driveways for each lot within the subdivision; and
 - (b) a grading plan for each lot, consistent with the subdivision construction plans, if applicable, must be provided at the time of development and building permit review.
- (D) The standards of this Section do not:
 - (1) affect implementation of the Regional Stormwater Management Program, as prescribed in the Drainage Criteria Manual; or

- (2) prohibit the Director from waiving detention standards, as prescribed in the Drainage Criteria Manual, if an applicant provides offsite improvements that result in an overall improvement of flooding conditions within the affected watershed.

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23-10E-4010 Applicability Of Division

This Division applies in the zoning jurisdiction.

23-10E-4020 Encroachment On Floodplain Prohibited

- (A) Except as provided in Section 23-10E-4060 (Standards in the 25-Year Floodplain), a development application may not be approved if a proposed building or parking area encroaches on the 25-year floodplain.
- (B) Except as provided in Sections 23-10E-4030 (General Exceptions), 23-10E-4040 (Standards in Central Business Area), and 23-10E-4050 (Standards for Parking Areas), a development application may not be approved if a proposed building or parking area encroaches on the 100-year floodplain.
- (C) The Director may grant a variance to Subsection (A) or (B) if the Director determines that:
 - (1) The finished floor elevation of a proposed building is at least two feet above the 100-year floodplain;
 - (2) Normal access to a proposed building is by direct connection with an area above the regulatory flood datum, as prescribed in Chapter 23-11, Article 23-11B, Division 23-11B-1 (Building Code);
 - (3) A proposed building complies with the standards in Chapter 23-11, Article 23-11B, Division 23-11B-1, Appendix G (Flood Resistant Construction) and Section 1612 (Flood Loads);
 - (4) The development compensates for the floodplain volume displaced by the development;
 - (5) The development improves the drainage system by exceeding the standards of Section 23-10E-3010 (Criteria for Approval of Development Applications), as demonstrated by a report provided by the applicant and certified by an engineer;
 - (6) The variance is required by unique site conditions; and
 - (7) Development allowed by the variance does not result in additional adverse flooding impact on other property.

- (D) The Director shall prepare written findings to support the grant or denial of a variance request in compliance with This Section.

23-10E-4030 General Exceptions

- (A) A development application with a proposed building or parking area that encroaches on the 100-year floodplain may be approved if the encroachment is:
- (1) A parking area that is smaller than 5,000 square feet or an unoccupied structure that has an area of less than 1,000 square feet, and the Director determines that the proposed development:
 - (a) Will not have an adverse effect on the 100-year floodplain or surrounding properties; and
 - (b) Otherwise complies with the standards of this Title;
 - (2) A single-family or duplex residential structure in a subdivision:
 - (a) Recorded before September 25, 1983; and
 - (b) In which only one residential structure is built on a single lot; or
 - (3) a building authorized by a waterway development permit issued in compliance with Chapter 9-10 before September 25, 1983.
- (B) A development application that may be approved in compliance with This Section must:
- (1) Comply with the flood proofing standards of Chapter 23-11, Article 23-11B, Division 23-11B-1 (Building Code); and
 - (2) Result in no additional adverse flooding impact on other properties, as determined by the Director.

23-10E-4040 Standards In Central Business Area

- (A) This Section establishes standards that apply in the central business area.
- (B) In This Section, central business area means the area bounded by Interstate Highway 35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.
- (C) A development application with a proposed building or parking area that encroaches on the 100-year floodplain may be approved if:
- (1) The floor slab of a proposed building is at least two feet above the 100-year floodplain;
 - (2) Normal access to that building is by direct connection with an area above the regulatory flood datum, as defined by Chapter 23-11, Article 23-11B, Division 23-11B-1 (Building Code);
 - (3) Development associated with construction of the building compensates for any floodplain volume displaced by that construction; and
 - (4) The applicant demonstrates by means of a study certified by an engineer that the construction of the building and development activities associated with that building improves the drainage system by exceeding the minimum standards of Sections 23-

10E-1030 (Obstruction of Waterways and Drainage Easements Prohibited), 23-10E-1040 (Duty to Maintain Unobstructed Waterways and Drainage Easements), and 23-10E-1050 (Standing Water Declared a Nuisance).

- (D) The Director may waive a standard of Subsection (C) if:
 - (1) The applicant submits:
 - (a) A written request identifying the standard to be waived; and
 - (b) A justification for the waiver prepared by an engineer certifying that waiving the standard will not result in additional adverse flooding of other property; and
 - (2) The Director determines that:
 - (a) The waiver is required by unique site conditions;
 - (b) The waiver is a minimum departure from the standards of Subsection (C); and
 - (c) Waiving the standard will not result in additional adverse flooding of other property.
- (E) A development application that may be approved in compliance with This Section must comply with the flood proofing standards of Chapter 23-11, Article 23-11B, Division 23-11B-1 (Building Code).

23-10E-4050 Standards For Parking Areas

- (A) This Section establishes standards that apply to the development of a parking area.
- (B) A development application with a proposed parking area that encroaches on the 100-year floodplain may be approved if:
 - (1) The level of water detention or waterflow in the parking area during the 100-year storm does not exceed:
 - (a) An average depth of eight inches; or
 - (b) A maximum depth of 12 inches at any point; and
 - (2) Appropriate signs, approved by the Director, are posted to notify persons that the water detention or waterflow in the parking lot may exceed a depth of eight inches.
- (C) Notwithstanding the standards of Subsection (B), a development application with a proposed parking area that encroaches on the 100-year floodplain may be approved if the parking area is:
 - (1) Accessory to a single-family or duplex residential structure on a lot in a subdivision recorded before September 25, 1983;
 - (2) Authorized by a waterway development permit issued in compliance with Chapter 9-10 before September 25, 1983; or
 - (3) In the 100-year floodplain of:
 - (a) Lady Bird Lake; or
 - (b) The Colorado River downstream from Longhorn Dam.

23-10E-4060 Standards In The 25-Year Floodplain

- (A) This Section establishes standards that apply to development in the 25-year floodplain.
- (B) A development application with a proposed building or parking area that encroaches on the 25-year floodplain may be approved if:
 - (1) The building or parking area is located on parkland, a golf course, or other public or recreational land;
 - (2) The building, if any, is either:
 - (a) A restroom or bath facility, concession stand, tool shed, or pump house, with an area of less than 1,000 square feet; or
 - (b) A dock that is located in the 25-year floodplain of Lady Bird Lake, Lake Walter E. Long, or Lake Austin and constructed, or proposed to be constructed, in compliance with the standards of this Title;
 - (3) The parking area, if any, is smaller than 5,000 square feet; and
 - (4) The Director determines that the proposed development:
 - (a) Will not result in additional adverse flooding impact on other properties; and
 - (b) Otherwise complies with the standards of this Title.
- (C) A development application approved in compliance with This Section must comply with the flood proofing standards of Chapter 23-11, Article 23-11B, Division 23-11B-1 (Building Code).

Division 23-10E-5: Responsibilities of Applicant or Owner

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23-10E-5010 Stormwater Conveyance And Drainage Facilities

- (A) The applicant is responsible for the conveyance of all stormwater flowing through the property, including stormwater that:
 - (1) Is directed to the property by other developed property; or
 - (2) Naturally flows through the property because of the topography.
- (B) Future upstream development must be accounted for as determined in compliance with the Drainage Criteria Manual.
- (C) If the construction or improvement of a storm drainage facility is required along a property line that is common to more than one property owner, the applicant is, at the time the property is developed, responsible for each required facility on either side of the common property line.
- (D) The responsibility of the applicant includes the responsibility to dedicate or obtain the dedication of any right-of-way or easement necessary to accommodate the required construction or improvement of the storm drainage facility.
- (E) If an applicant proposes to develop only a portion of that property, a stormwater drainage facility to serve that portion of the property proposed for immediate development or use is required, unless the Director determines that construction or improvement of a drainage facility outside that portion of the property to be developed is essential to the development or use of the property to be developed.
- (F) The applicant shall provide adequate off-site drainage improvements to accommodate the full effects of the development. The City may assist the applicant in the acquisition of an interest in property necessary to provide an off-site improvement, if the applicant:
 - (1) By affidavit, certifies that a bona fide attempt to provide the off-site drainage improvements has not been successful; and
 - (2) Provides an adequate guarantee that the applicant will:
 - (a) Finance the entire cost of acquiring the necessary property interest; and
 - (b) Retain full responsibility for construction of the required off-site improvement.

23-10E-5020 Dedication Of Easements And Rights-Of-Way

- (A) The applicant shall dedicate to the public an easement or right-of-way for a drainage facility, open or enclosed, and stormwater flow to the limits of the 100-year floodplain, as prescribed in the Drainage Criteria Manual.

- (B) An easement or right-of-way required by Subsection (A) must be of sufficient width to provide continuous access for the operation, maintenance, or repair of a drainage facility, as prescribed in the Drainage Criteria Manual.
- (C) The applicant shall dedicate any additional easement or right-of-way that is necessary to allow continuous access for the operation, maintenance, or rehabilitation of a drainage facility.
- (D) A part of a lot or tract of land that is located in an easement or right-of-way required by This Section may be included as part of the area of the lot or tract of land in the calculation of density or impervious cover.
- (E) For property in the full-purpose limits of the City, the Director may grant a variance to Subsection (A) if the Director determines:
 - (1) Development with the variance does not result in additional adverse flooding of other property; and
 - (2) The development:
 - (a) Is allowed by a variance granted in compliance with Section 23-10E-4020(C) (Encroachment on Floodplain Prohibited);
 - (b) Is allowed in a floodplain in compliance with Section 23-10E-4030 (General Exceptions), Section 23-10E-4040 (Standards in Central Business Area), Section 23-10E-4050 (Standards for Parking Areas), or Section 23-10E-4060 (Standards in the 25-Year Floodplain);
 - (c) Is not a building or parking area; or
 - (d) Is a nonconforming use, as defined by Chapter 23-11, Article 23-11B, Division 23-11B-1, Appendix G, Section G102.3 (Nonconforming Uses).

23-10E-5030 Detention Basin Maintenance And Inspection

- (A) For a commercial, civic, industrial, or multi-family development:
 - (1) The record owner of the development shall maintain the detention basin serving the development in compliance with the Drainage Criteria Manual, whether or not the basin is located on the same property as the development. The record owner shall provide the City proof of the right to access and maintain the basin if it is not located on the same property as the development.
 - (2) If more than one development is served by a single detention basin, the record owners of the basin and all developments served by the basin shall be jointly and severally responsible for maintenance of the basin in compliance with the Drainage Criteria Manual.
 - (3) The City shall inspect each detention basin that is not a subsurface basin at least once every three years to ensure that the basin is being maintained in compliance with the Drainage Criteria Manual. If the basin fails inspection requiring an additional inspection, the Director may charge a re-inspection fee.
 - (4) The record owner of a subsurface detention basin shall provide the Watershed Protection Department with a maintenance plan and an annual report from an engineer verifying that the basin is in proper operating condition.

- (B) For a duplex or single-family development:
 - (1) The City shall be responsible for maintenance of the detention basin only after the basin has been accepted for maintenance by the City.
 - (2) The City will accept a detention basin for maintenance upon determining that it meets all standards of the Drainage Criteria Manual.
 - (3) Until the City accepts a detention basin for maintenance, the record owner(s) of the basin and the development served shall maintain the basin in compliance with the Drainage Criteria Manual.
- (C) The Watershed Protection Department may authorize an alternative arrangement for maintenance of a detention basin in compliance with the Drainage Criteria Manual. If an alternative arrangement is approved by the Director, the City Attorney shall determine whether an agreement is necessary; the agreement must be approved by the City Attorney and filed of record.

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