

General Planning Standards for All



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Article 23-3A: Purpose and Applicability

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Division 23-2A-1: Purpose and Applicability

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23-2A-1010 Purpose

This Chapter provides standards and regulations for the following purposes: to provide parkland; to provide for the protection and replenishment of urban forest resources; to provide for the protection of water quality and protection from flooding; and to encourage the creation and preservation of affordable housing. These aspects are all essential to the development of a healthy, sustainable and desirable city environment. The interests of the community and the goals of the Comprehensive Plan and Zoning Code are further ensured through the application of this Chapter.

23-2A-1020 Applicability

This Chapter applies to all development within the City of Austin and the ETJ.

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Article 23-3B: Parkland Dedication

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23-3B-1010 Purpose and Applicability

- (A) **Purpose.** The City of Austin has determined that recreational areas in the form of public parks are necessary for the well-being of residents. The City has further determined that the approval of new residential development is reasonably related to the need for additional parkland and park amenities to serve new development. This Article establishes a fair method for determining parkland dedication, or the payment of a fee in-lieu of dedication, to be required as a condition to the approval of new development in an amount proportionate to the impact of development on existing parks and established levels of service.
- (B) **Applicability**
- (1) The requirements of this Article apply to:
- (a) A residential Subdivision in the planning jurisdiction;
 - (b) A Site Plan in the zoning jurisdiction that includes residential units or a hotel-motel use; and
 - (c) A Residential Building Permit, as provided under Section 23-3B-1020 (Dedication of Land or Payment In-Lieu at Building Permit).
- (2) The following are exempt from the requirements of this Article:
- (a) A Subdivision or Site Plan for which parkland was previously dedicated or payment made under this Title, except for the dwelling units or lots that exceed the number for which dedication or payment was made;
 - (b) Development within the City's extraterritorial jurisdiction that is within Travis County and governed by Title 30 (Austin/Travis County Subdivision Regulations); and
 - (c) Affordable dwelling units that are described in Article 23-3E (Affordable Housing).

23-3B-1020 Dedication of Land or Payment In-Lieu at Building Permit

- (A) Dedication of parkland or payment in lieu of dedication, as determined by the Park Director under this Article, is required as a condition to obtaining a Building Permit for residential development located within a Subdivision that:
- (1) At the time of approval, was deemed to be exempt from a requirement to dedicate parkland or pay a fee in-lieu of dedication based on the assumption that development within the Subdivision would be limited to non-residential uses; and

- (2) Has not subsequently developed with a use for which parkland was dedicated or a fee in-lieu of dedication was paid.
- (B) The amount of a fee in-lieu of parkland dedication under this Section shall be calculated in accordance with Section 23-3B-2010 (Dedication of Parkland) and Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication).

23-3B-1030 Administrative Authority

- (A) The Park Director is authorized to adopt administrative rules and take other actions that are necessary to implement this Article.
- (B) The Park Director shall, at a minimum, adopt the following by administrative rule under Chapter 1-2 (Administrative Rules):
 - (1) A Deficient Park Area Map illustrating shortages in parkland; and
 - (2) Parkland Dedication Operating Procedures establishing:
 - (a) Boundaries for service areas required by Section 23-3B-3030 (Fee Payment and Expenditure) for use of a fee in-lieu of parkland dedication and parkland development fee;
 - (b) General standards for dedicated parkland under Section 23-3B-2020 (Standards for Dedicated Parkland);
 - (c) Methodology for determining:
 - (i) Parkland cost factor and park level-of-service under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication); and
 - (ii) Park development cost factor and facilities level-of-service under Section 23-3B-3020 (Parkland Development Fee); and
 - (d) Other provisions deemed necessary for implementing this Article.
- (C) Before initiating the administrative rules process, as required by Subsection (B) of this Section, the Park Director shall present a proposed Deficient Park Area Map and Parkland Dedication Operating Procedures to the Parks Board for a recommendation.

Division 23-3B-2: Dedication

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23-3B-2010 Dedication of Parkland

- (A) An applicant seeking Subdivision or Site Plan approval must provide for the parkland needs of the residents by the dedication of suitable land for park and recreational purposes under this Article or by payment of a fee in-lieu of dedication under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication).
- (B) For a Subdivision, the area to be dedicated must be shown on the preliminary plan and final plat as “Parkland Dedicated to the City of Austin.” The subdivider shall dedicate to the City all parkland required by this Article when a plat is approved, except that the Park Director may defer dedication of parkland to Site Plan approval if development within the Subdivision will require a Site Plan under Chapter 23-6 (Site Plan).
- (C) For a Site Plan, the area to be dedicated must be shown on the Site Plan as “Parkland Dedicated to the City of Austin” and in a deed to the City. The applicant shall dedicate the parkland required by this Article to the City by deed before the Site Plan is released, except that dedication may be deferred until issuance of a certificate of occupancy if construction of amenities is authorized under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) or Section 23-3B-3020 (Parkland Development Fee). In negotiating a deed under this Section, the Park Director may require that a reasonable portion of the total impervious cover permitted on the site be allocated to the dedicated parkland to allow for construction of parkland amenities without unduly impacting development of the proposed Site Plan.
- (D) For a Building Permit that is subject to Section 23-3B-2020 (Dedication of Land or Payment In-Lieu at Building Permit), the area to be dedicated must be shown in a deed to the City. The applicant shall dedicate to the City all parkland required by this Article before a Building Permit is issued.
- (E) Except as provided under Subsection (J), the amount of parkland required to be dedicated to the City is 9.4 acres for every 1,000 residents, as determined by the following formula:
$$(9.4 \times \text{Number of Units} \times \text{Residents per Unit}) / 1,000 = \text{Acres of Parkland}$$
- (F) In calculating the amount of parkland to be dedicated under this Section, the number of residents in each dwelling unit is based on density as follows:

Table 23-3B-2010.A: Calculation of Parkland

Density Classification	Residents in Each Dwelling Unit
Low Density: Not more than 6 units per acre	2.8
Medium Density: More than 6 and not more than 12 units per acre	2.2
High Density: More than 12 units per acre	1.7
Hotel-Motel Density: Total number of rooms	1.7 × Annual Occupancy Rate

- (G) If the density of a development is not known:
- (1) The density is assumed to be the highest permitted in the Zone, or if the property is not zoned, 24 dwelling units per acre; or
 - (2) For a residential Subdivision within the extraterritorial jurisdiction, the applicant may reduce the assumed density by agreeing, in a manner that is enforceable by the City and approved by the City Attorney, that any subsequent increases in density may require additional dedication of parkland under this Section or payment of a fee in-lieu of dedication under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication).
- (H) The applicant seeking a Subdivision or Site Plan must pay all costs of transferring the parkland to the City, including the costs of:
- (1) An environmental site assessment without any further recommendations for clean-up, certified to the City not earlier than the 120th day before the closing date;
 - (2) A Category 1(a) land title survey, certified to the City and the title company not earlier than the 120th calendar day before the closing date;
 - (3) A title commitment with copies of all Schedule B and C documents, and an owner's Title policy;
 - (4) A fee simple deed;
 - (5) Taxes prorated to the closing date;
 - (6) Recording fees; and
 - (7) Charges or fees collected by the title company.
- (I) Development within a Planned Unit Development (PUD) Zone may, if required by the ordinance adopting the PUD, be subject to additional parkland requirements and may be entitled to count dedicated parkland towards meeting open space requirements under Section 23-4D-6120 (Planned Unit Development).
- (J) The amount of parkland required to be dedicated within the Parkland Dedication Urban Core may not exceed 15 percent of gross site area for the development required to provide the dedication except upon consent of the applicant or as authorized under this Subsection.
- (1) The Park Director may request that the Land Use Commission approve dedication in excess of the 15 percent cap, up to the amount required under Subsection (E), if doing so is necessary to address a critical shortage of parkland for an area identified in the

Deficient Parkland Area Map or provide connectivity with existing or planned parks or recreational amenities.

- (2) Before the Land Use Commission considers a request under this Subsection for approval, the Park Director shall present the request to the Parks Board for a recommendation.
- (3) In considering a request from the Park Director under this Subsection, the Land Use Commission may:
 - (a) Deny the Parks Director request and limit the required dedication to no more than 15 percent of gross site area; or
 - (b) Require additional parkland dedication beyond the 15 percent cap, up to the lesser of either the amount required under Subsection (E) or the minimum amount the Land Use Commission finds to be necessary based on the criteria in Subsection (J)(1) and the parkland dedication operating procedures.
- (4) If an applicant dedicates less than the amount of land required for dedication under Subsection (E) due to the cap imposed by this Subsection, the Park Director shall require payment of a fee in-lieu of dedication under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) for the remaining undedicated land.
- (5) A request by the Park Director under this Subsection may be consolidated with an appeal by the applicant under Subsection 23-3B-3010 (F) (Payment of Fee In-Lieu Dedication).

23-3B-2020 Standards for Dedication of Parkland

- (A) In addition to the requirements of this Article, land to be dedicated as parkland must meet the requirements of this Subsection.
 - (1) Parkland must be easily accessible to the public and open to public view so as to benefit area residents, enhance the visual character of the City, protect public safety, and minimize conflicts with adjacent land uses.
 - (2) On-street and off-street connections between residential neighborhoods shall be provided, wherever possible, to provide reasonable access to parks and open space areas.
 - (3) In addition to the requirements of this Subsection, parkland must comply with the standards in the Comprehensive Plan, the Park and Recreation Long-Range Plan, the Environmental Criteria Manual, and the Parkland Dedication Operating Procedures.
- (B) The Park Director shall determine whether land offered for dedication complies with the standards for dedication under Subsection (A) and may require an applicant seeking a Subdivision or Site Plan applicant to provide information deemed necessary to determine compliance.
- (C) Unless otherwise required under the Parkland Dedication Operating Procedures, 50 percent of acreage in the 100 year floodplain that is dedicated as parkland may be credited toward fulfilling the requirements of this Article if any adjoining land within the 25 year floodplain is also dedicated as parkland. The land within the 25 year floodplain may not be credited toward fulfilling the requirements of this Article.

- (D) Land identified on the Deficient Parkland Area Map maintained by the Parks and Recreation Department that does not otherwise comply with the standards for parkland dedication may be accepted as dedicated parkland if the Park Director determines that the land will provide recreational or educational opportunities for the surrounding community. In this event, 50 percent of the acreage may be credited toward fulfilling the requirements of this Article.

23-3B-2030 Private Parkland

- (A) The Park Director may allow up to a 100 percent credit toward fulfilling the requirements of:
 - (1) Section 23-3B-2010 (Dedication of Parkland) for privately owned and maintained parkland or recreational easements that are available for use by the public and meet the standards of the Parkland Dedication Operating Procedures; and
 - (2) Section 23-3B-3020 (Parkland Development Fee) for recreational facilities that are located on privately owned and maintained parkland and available for use by the public.
- (B) The Park Director may allow up to a 100 percent credit toward fulfilling the requirements of this Article for private parkland in a Subdivision or Site Plan located outside the City limits, if:
 - (1) The Park Director determines that the private parkland meets City parkland standards; and
 - (2) The land owner agrees to dedicate the private parkland to the City when the City annexes the land for all purposes.
- (C) If private parkland will include construction of recreational amenities, the applicant must post fiscal surety in an amount equal to the fee in-lieu provided for under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) and the development fee required under Section 23-3B-3020 (Parkland Development Fee). The fiscal surety must be posted before final plat approval or before Site Plan release, for any portion of the Subdivision that will require a Site Plan.
- (D) Yards, setback areas, and private personal open spaces required by this Title may not be counted as private parkland under this Section, except for a required setback or yard that includes a public trail.
- (E) If private parkland is allowed, a recreation easement must be recorded prior to Site Plan or Subdivision approval.

Division 23-3B-3: Fees

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23-3B-3010 Fee In-Lieu of Parkland Dedication

- (A) The Park Director may require or allow an applicant seeking Subdivision or Site Plan approval to deposit with the City a fee in-lieu of parkland dedication under Section 23-3B-2010 (Dedication of Parkland) if:
 - (1) The Park Director determines that payment of a fee in-lieu of dedication is justified under the criteria in Subsection (B); and
 - (2) The following additional requirements are met:
 - (a) Less than six acres is required to be dedicated under Section 23-3B-2010 (Dedication of Parkland); or
 - (b) The land available for dedication does not comply with the standards for dedication under Section 23-3B-2020 (Standards for Dedicated Parkland).
- (B) In determining whether to require dedication of land under Section 23-3B-2010 (Dedication of Parkland) or allow payment of a fee in-lieu of dedication under this Section, the Park Director shall consider whether the Subdivision or Site Plan:
 - (1) Is located within the Deficient Park Area Map;
 - (2) Is adjacent to existing parkland;
 - (3) Has sufficient acreage to meet the standards for dedicated parkland under the Parkland Dedication Operating Procedures;
 - (4) Is needed to address a critical need for parkland or to remedy a deficiency identified by the Deficient Park Area Map; or
 - (5) Would provide increased connectivity with existing or planned parks or recreational amenities.
- (C) The Park Director shall, at the request of an applicant, determine whether payment of a fee in-lieu of parkland dedication will be allowed prior to formal submittal of a Site Plan or Subdivision application. The Park Director may establish requirements for obtaining the determination in the Parkland Dedication Operating Procedures and may require an applicant to provide information relevant to the criteria in Subsection (B). A determination issued under this Subsection is valid for a period of one-year from the date of issuance.
- (D) The amount of the fee in-lieu of parkland dedication is established in the annual fee schedule based on a recommendation by the Park Director in accordance with this Subsection.
 - (1) Fee In-Lieu of Dedication

Table 23-3B-3010.A: In Lieu Fee Calculation

Density Classification	Residents in Each Dwelling Unit
Low Density: Not more than 6 units per acre	2.8 x Land Cost per Person
Medium Density: More than 6 and not more than 12 units per acre	2.2 x Land Cost per Person
High Density: More than 12 units per acre	1.7 x Land Cost per Person
Hotel-Motel Density: Total number of rooms	1.7 x Annual Occupancy Rate x Land Cost per Person

- (2) For purposes of calculating “Land Cost per Person” to determine the fee in-lieu under Subsection (D)(1).
- (3) $\text{Land Cost per Person} = (\text{Parkland Cost Factor}) / (\text{Parkland Level of Service})$
- (4) Where:
- (a) “Parkland Cost Factor” is determined by the Park Director based on the average purchase price to the City for acquiring an acre of parkland, excluding a metro or district park or golf course; and
 - (b) “Parkland Level-of-Service” is:

$$\text{Parkland Level of Service} = (\text{City Population}) / (\text{Net Park Acreage})$$
 Where:
 - (i) “City Population” is determined by the City Demographer; and
 - (ii) “Net Park Acreage” is the total citywide acreage of neighborhood parks, pocket parks, and greenways, as determined by the Park Director prior to adoption of the annual fee ordinance by the Council.
- (E) If the Park Director determines that payment of a fee in-lieu of parkland dedication is authorized under this Section for only a portion of the land required to be dedicated under Section 23-3B-2010 (Dedication of Parkland), the Park Director may allow an applicant to pay a fee in-lieu for that portion and require that the remaining land be dedicated. If an applicant dedicates parkland under Section 23-3B-2010 (Dedication of Parkland), the Park Director may not include that acreage in calculating the fee in-lieu required by this Section for any remaining land not included in the dedication.
- (F) If the Park Director rejects a request to pay a fee in-lieu of dedication under Subsection (B), the applicant may appeal the Park Director’s decision to the Land Use Commission consistent with the procedures in Division 23-2X(Appeals) of this Chapter. Before the Land Use Commission considers the appeal, the Park Director shall present the case to the Parks Board for a recommendation, but failure by the Parks Board to act shall not prohibit the Land Use Commission from considering the appeal.

23-3B-3020 Parkland Development Fee

- (A) An applicant must pay a parkland development fee as a condition to Subdivision or Site Plan approval in order to ensure that land is developed with recreational amenities sufficient for park use, except as provided in Subsection (C).

- (B) The amount of the development fee is established in the annual fee schedule based on a recommendation by the Park Director in accordance with this Subsection.

(1) Parkland Development Fee

Table 23-3B-3020.A: Parkland Development Fee

Density Classification	Residents in Each Dwelling Unit
Low Density: Not more than 6 units per acre	2.8 x Park Development Cost per Person
Medium Density: More than 6 and not more than 12 units per acre	2.2 x Park Development Cost per Person
High Density: More than 12 units per acre	1.7 x Park Development Cost per Person
Hotel-Motel Density: Total number of rooms	1.7 x Annual Occupancy Rate x Park Development Cost per Person

- (2) For purposes of determining the development fee under Subsection (B)(1):

Park Development Cost=(Park Development Cost Factor)/(Park Facilities Level of Service)

Where:

- (a) "Park Development Cost Factor" is determined by the Park Director based on the average cost of developing an acre of parkland up to the standards of a neighborhood park; and

- (b) "Park Facilities Level-of-Service" is:

Park Facilities Level of Service=(City Population)/(Number of Developed Parks)

Where:

- (i) "City Population" is determined by the City Demographer; and
- (ii) "Number of Developed Parks" is the total number of parks developed with a recreational amenity or trail, as determined by the Park Director prior to adoption of the annual fee ordinance by the Council.

- (C) The Park Director may allow an applicant to construct recreational amenities on public parkland or private parkland, if applicable, in-lieu of paying the development fee required by this Section. In order to utilize this option, the applicant must:

- (1) Post fiscal surety in an amount equal to the development fee;
- (2) If a dedication of land is required, construct recreational amenities prior to the dedication in a manner consistent with the parkland dedication operating procedures; and
- (3) Document the required amenities concurrent with Subdivision or Site Plan approval, in a manner consistent with the parkland dedication operating procedures.

23-3B-3030 Fee Payment and Expenditure

- (A) Payment of a fee required under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) or Section 23-3B-3020 (Parkland Development Fee) must be paid as required by this Subsection.
 - (1) If a fee in-lieu of dedication or a parkland development fee is required as a condition to Subdivision approval, the applicant must deposit the fee with the City before final plat approval. The applicant may defer payment of a fee until Site Plan approval unless development proposed within the Subdivision is exempt from the requirement to submit a Site Plan under Division 23-6A-2 (Exemptions).
 - (2) If a fee in-lieu of dedication or a parkland development fee is required as a condition to Site Plan approval, the applicant must deposit the fee with the City before the Site Plan may be approved.
- (B) The Park Director shall place fees paid under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) or Section 23-3B-3020 (Parkland Development Fee) into separate funds and use the fees consistently with the requirements of this Subsection.
 - (1) The Park Director shall use fees paid under Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication) solely to acquire parkland or recreational easements that will benefit residents of the development for which the fees are assessed, except as provided in Subsection (B)(3). These parkland or recreational easements must be located within a service area designated by the Park Director under the Parkland Dedication Operating Procedures.
 - (2) The Park Director shall use fees paid under Section 23-3B-3020 (Parkland Development Fee) solely to acquire and develop recreational amenities that will benefit residents of the development for which the fees are assessed. These parkland or recreational easements must be located within a service area designated by the Park Director under the Parkland Dedication Operating Procedures.
 - (3) The Park Director may use fees paid under 23-3B-3010 (Fee In-Lieu of Parkland Dedication) consistent with the purposes described in Subsection (B)(2) if, within one year from the date the fees are appropriated for expenditure, the Park Director determines that land which meets the requirements of Section 23-3B-2020 (Standards for Dedicated Parkland) is unavailable for purchase within the service area for which the fees were assessed.
- (C) The City shall expend a fee collected under this Article within five years from the date the fees are appropriated for expenditure by the Park Director. This period is extended by five years if, at the end of the initial five-year period, less than 50 percent of the residential units within a Subdivision or Site Plan have been constructed.
- (D) If the City does not expend a fee payment by the deadline required in Subsection (C) the Subdivision or Site Plan applicant who paid the fee may request a refund under the requirements of this Subsection.
 - (1) A refund may only be requested for unbuilt units for which a fee in-lieu of dedication was paid. The refund request must be made in writing and filed with the Parks and Recreation Department not later than 180 calendar days after the expiration of the deadline under Subsection (C).
 - (2) If the refund request is timely filed, the Park Director shall:

- (a) Refund the amount of unspent fees that were collected under this Article in connection with approval of a Subdivision or Site plan; and
- (b) If a Site Plan for which fees were assessed was subsequently revised to reduce the number of units, recalculate the amount due based on the reduced number of units and refund any fees paid in excess of that amount.

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Article 23-3C: Urban Forest Protection and Replenishment

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23-3C-1010 Intent

The urban forest has social, ecological, cultural, economic, historical, and aesthetic benefits for the citizens of Austin. A 2016 study by the U.S. Forest Service and the Texas A&M Forest Service estimated that there are nearly 34 million trees in the City of Austin, and trees in the city save citizens almost \$19 million annually in reduced residential energy costs, they sequester carbon at almost \$12 million a year, and have a standalone, compensatory value of \$16 billion. The study also found that: (1) trees less than five inches in diameter account for 61 percent of the canopy cover, (2) trees 8 to 19 inches in diameter have greater leaf area relative to abundance, and (3) the larger the tree the greater the environmental benefits. Consequently, the urban forest is an integral part of the City's infrastructure and the City has an interest in planning and protecting this resource with the goal of increasing the urban forest within the City to maximize the aforementioned benefits.

23-3C-1020 Applicability

- (A) This Article applies in the zoning jurisdiction.
- (B) This Article applies to City projects or projects on City property in and outside the zoning jurisdiction.
- (C) Public tree regulations apply to:
 - (1) Two inch and greater trees apply in the street-side right of way and on City owned or operated parkland.
 - (2) Eight inch and greater apply to all other City lands.
- (D) Keystone tree regulations apply to all development.
- (E) Protected tree regulations apply to all development.
- (F) Heritage tree regulations apply to all development.

Table 23-3C-1020.A: Applicability

Tree	Location
2" and Greater Public Trees	Right of Way and City Parkland
Keystone Trees	All Development
Protected Trees	All Development
Heritage Trees	All Development

23-3C-1030 Definitions

In this Article:

- (A) Regulated trees are measured per the Environmental Criteria Manual and are defined as:

Table 23-3C-1030.A: Regulated Trees

Regulatory Class	Size
Young Public Trees	2" - 7.9" diameter
Keystone Trees	8" - 18.9" diameter
Protected Trees	19" diameter or greater
Heritage Trees	24" diameter or greater (certain species)

- (1) Young Public Trees - 2 diameter inches to 7.9 diameter inches (at least 2/3 of trunk must occur on public property)
- (2) Keystone Trees - Public or private 8 to 18.9 diameter inches
- (3) Protected Trees - Public or private 19 diameter inches or greater
- (4) Heritage Trees - Public or private 24 diameter inches or greater of following species:
 - (a) Ash, Texas
 - (b) Cypress, Bald
 - (c) Elm, American
 - (d) Elm, Cedar
 - (e) Madrone, Texas
 - (f) Maple, Bigtooth
 - (g) All Oaks
 - (h) Pecan
 - (i) Walnut, Arizona
 - (j) Walnut, Eastern Black

This list of eligible heritage tree species may be supplemented, but not reduced, as prescribed by rule.

- (B) Natural Character of the Landscape - Natural character varies across geographic and physiographic landscapes in the city and could be influenced by prior land use practices. In general, protecting natural character on developed land is principally through protecting individual trees, greenfield development shall protect intact wooded areas with

contiguous canopy coverage and individual trees within the development project. Historic agricultural and degraded land shall focus on protecting existing tree canopy, but where no canopy exists the emphasis shall be on aggressively replanting site appropriate trees. Protection of individual trees is considered priority for urban infill development.

- (C) Removal means an act that causes or may be reasonably expected to cause a tree to die, including:
 - (1) uprooting;
 - (2) severing or injuring the trunk;
 - (3) damaging the critical root zone; and/or
 - (4) excessive pruning.
- (D) Tree condition:
 - (1) Dead: biological death of vascular tissue to the extent that recovery of the tree is not possible.
 - (2) Fatally Diseased: abnormal growth or dysfunction of a tree that is not recoverable and/or is communicable that results in tree mortality.
 - (3) Imminent Hazard: failure has started or is most likely to occur in the near future, even if there is no significant wind or increased loading.

23-3C-1040 Administration

- (A) A City Arborist, appointed by the director of the Development Services Department, shall implement this Article.
- (B) The Development Services Department shall adopt administrative rules for the implementation of this Article.
- (C) The rules shall include:
 - (1) tree survey and assessment requirements;
 - (2) application depictions and preservation standards;
 - (3) actions that will constitute impacts or removal;
 - (4) mitigation measures;
 - (5) methods to protect regulated trees during development; and
 - (6) criteria and performance indicators, including a canopy cover goal, for assessing the state of the urban forest.

23-3C-1050 Waiver and Modification of City Requirements

- (A) If enforcement of a City department policy, rule, or design standard will result in removal of a regulated tree, the City Arborist may request that the responsible City department waive or modify the policy, rule, or design standard to the extent necessary to preserve the tree.

- (B) The responsible City department may waive or modify the policy, rule, or design standard after determining that a waiver or modification will not result in a serious or imminent adverse effect.
- (C) The City Manager shall resolve differences of opinion between the City Arborist and another City department under this Section.

23-3C-1060 Reports

The City Arborist shall report annually to the Environmental Commission. The report shall include, but is not limited to development impacts to regulated trees and the state of the urban forest.

Division 23-3C-2: General Administration for Regulated Trees

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23-3C-2010 Development Application Requirements

- (A) An application must:
 - (1) include necessary review and inspection information as prescribed by the Environmental Criteria Manual; and
 - (2) demonstrate that the design will preserve the existing natural character of the landscape by incorporating regulated trees unless they meet removal criteria. Removal criteria are addressed in the Environmental Criteria Manual.
- (B) For an application that proposes potential impacts or removal to a regulated tree, the City Arborist must review the application and make a compliance determination before the application may be administratively approved.
 - (1) Exception: If a tree has sustained substantial damage by natural causes and is an imminent hazard to life or property, a person may remove this tree prior to submitting an application obtaining a permit. The City Arborist shall establish rules for submitting applications under this exception.
- (C) If a regulated tree is permitted for removal, the City Arborist may require mitigation, including the planting of replacement trees, as a condition of approval. Mitigation approaches are listed in the Environmental Criteria Manual. Mitigation shall be wholly satisfied on the proposed development prior to release by the Director.
- (D) Eligibility for submitting application:
 - (1) For a regulated tree located on public property or a public street or easement, an application may be filed by:
 - (a) A City department, public utility, or political subdivision with the authority to install utility lines or other public facilities in or above the property, street, or easement.
 - (2) For a regulated tree located on private property, an application may be filed by:
 - (a) the owner of the property, on which the tree is located; or
 - (b) the City, if the tree is fatally diseased, dead, or an imminent hazard and is a high risk to the public.
- (E) An application fee is not required if the application is for removal under Section 23-3C-2020(D)(3), (4), or (5) (Review Criteria for Permitting Removal of Regulated Trees).

23-3C-2020 Review Criteria For Permitting Removal Of Regulated Trees

- (A) Regulated trees are to be preserved unless review criteria are met for removal.
- (B) Young public and public keystone trees are to be protected and may only be removed after staff determines:
 - (1) All unnecessary and avoidable grading, parking, utility assignments, landscape island configuration, access routes, etc. and internal circulation routes will be assessed to ensure unnecessary removals are not permitted.
 - (2) Meets Subsection (D)(3),(4), (5), or (6).
- (C) Private keystone trees are to be protected to the extent feasible.
 - (1) All unnecessary and avoidable grading, parking, utility assignments, landscape island configuration, access routes, etc. and internal circulation routes will be assessed to ensure unnecessary removals are not permitted.
 - (2) Preservation of private keystone trees on single-family developments shall be used to satisfy mitigation requirements should protected or heritage trees be permitted for removal.
 - (3) Meets Subsection (D)(3),(4), (5), or (6).
- (D) For protected trees, the Development Services Department may approve an application to remove a protected tree only after determining that the tree:
 - (1) prevents a reasonable access to the property;
 - (2) prevents a reasonable use of the property;
 - (3) is an imminent hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree;
 - (4) is dead;
 - (5) is fatally diseased; or
 - (6) for a tree located on public property or a public street or easement:
 - (a) prevents the opening of necessary vehicular traffic lanes in a street or alley; or
 - (b) prevents the construction of utility or drainage facilities that may not feasibly be rerouted and reasonable alternative construction methods have been exhausted.
- (E) If an application filed by a political subdivision of the state is approved under Subsection (D)(2), the Land Use Commission may, in its discretion, review the approval.
- (F) For an application to remove a protected tree, any reasonable variances, waivers, exemption, or modifications shall be pursued per the City Arborist.
 - (1) The application to remove the protected tree may not be approved unless the request per this Subsection is denied.
 - (2) This Subsection does not apply to an application that may be approved under Subsection (D)(3), (4), or (5).
- (G) Alternative development plans demonstrating due diligence to preserve regulated trees must be submitted to the City Arborist for review to assess meeting criteria in Subsection (D)(1),(2), (6)(a) and (b).

23-3C-2030 Action On Application

- (A) The City Arborist shall take action on an application to remove a regulated tree:
 - (1) not later than the 15th working day after the complete application is filed;
 - (2) if associated with development activities that have prescribed timelines then deference is given to those timelines; or
 - (3) if a variance, waiver, exemption, modification, or alternative compliance request is required by Section 23-3C-2020 (Review Criteria for Permitting Removal of Regulated Trees), not later than the 10th working day after the request is denied.

23-3C-2040 Effective Date And Expiration Of Approval

- (A) Approval of an application to remove a regulated tree is effective immediately unless associated with development plans. If associated with development plans, removal is effective after development plan approval and required preconstruction meetings have occurred.
- (B) An approval to remove a regulated tree expires:
 - (1) one year after its effective date if the permit is not associated with development; or
 - (2) if associated with a development when the development plan expires.

23-3C-2050 Appeal

An applicant may appeal the denial of an application to remove a regulated tree to the Land Use Commission.

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Division 23-3C-3: Heritage Trees

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23-3C-3010 Removal Prohibited

For an application that proposes the removal of a heritage tree, the applicant must file a request for a variance to remove the heritage tree under this Division before the application may be administratively approved or presented to the Land Use Commission.

- (A) Removal of a heritage tree is prohibited unless the City Arborist has issued a permit for the removal under this Division.
- (B) A permit to remove a heritage tree may be issued only if a variance is approved under Section 23-3C-3020 (Administrative Variance) or 23-3C-3030 (Land Use Commission Variance).
- (C) The requirements in this Division apply to trees on private and public property. To the extent of conflict with another Section of the City Code, this Division applies.
- (D) A person may, without a variance, remove a damaged heritage tree that is an imminent hazard to life or property if the tree is removed within seven days of being damaged. The Director may extend this deadline for widespread and extensive storm damage. See the Environmental Criteria Manual for submittal requirements.

23-3C-3020 Administrative Variance

- (A) The City Arborist may grant a variance from Section 23-3C-3010 (Removal Prohibited) to allow removal of a heritage tree only after determining that the heritage tree:
 - (1) is dead;
 - (2) is an imminent hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree; or
 - (3) is diseased and:
 - (a) restoration to sound condition is not practicable; or
 - (b) the disease may be transmitted to other trees and endanger their health.

- (B) No application fee and no mitigation are required for a variance request under Subsection (A).
- (C) The Director of the Development Services Department may grant a variance from Section 23-3C-3010 (Removal Prohibited) to allow removal of a heritage tree that does not have at least one stem that is 30 inches in diameter or larger (measured per the ECM) only after determining, based on the City Arborist's recommendation, that the heritage tree meets the criteria in Section 23-3C-2020 (Review Criteria for Permitting Removal of Regulated Trees) and that:
 - (1) the applicant has applied for and been denied a variance, waiver, exemption, modification, or alternative compliance from another City Code provision which would eliminate the need to remove the heritage tree, as required in Section 23-3C-3060 (Variance Prerequisite); and
 - (2) removal of the heritage tree is not based on a condition caused by the method chosen by the applicant to develop the property, unless removal of the heritage tree will result in a design that will allow for the maximum provision of ecological service, historic, and cultural value of the trees on the site.
- (D) A variance granted under this Section:
 - (1) shall be the minimum change necessary;
 - (2) shall require mitigation as a condition of variance approval for variances requested under Subsection (C) of this Section; and
 - (3) may not be issued until the applicant has satisfied the mitigation conditions required under this Subsection (D)(2) or posted fiscal security adequate to ensure performance of the mitigation conditions not later than one year after issuance of the variance.
- (E) The Director of the Development Services Department shall prepare written findings to support the grant or denial of a variance request under Subsection (C) of this Section.

23-3C-3030 Land Use Commission Variance

- (A) The Land Use Commission may grant a variance from Section 23-3C-3010 (Removal Prohibited) to allow removal of a heritage tree that has at least one stem that is 30 inches or larger in diameter (measured per ECM) after determining, based on the City Arborist's recommendation, that the heritage tree meets the criteria in Section 23-3C-2020 (Review Criteria for Permitting Removal of Regulated Trees), and that:
 - (1) the applicant has applied for and been denied a variance, waiver, exemption, modification, or alternative compliance from another City Code provision which would eliminate the need to remove the heritage tree, as required in Section 23-3C-3060 (Variance Prerequisite); and
 - (2) removal of the heritage tree is not based on a condition caused by the method chosen by the applicant to develop the property, unless removal of the heritage tree will result in a design that will allow for the maximum provision of ecological service, historic, and cultural value of the trees on the site.
- (B) A variance granted under this Section:
 - (1) shall be the minimum change necessary; and
 - (2) shall require mitigation as a condition of variance approval.

- (C) Consideration of a variance under this Section requires consideration by the Environmental Commission.

23-3C-3040 Appeal

- (A) An applicant may appeal denial of an administrative variance under Section 23-3C-3020 (Administrative Variance) to the Land Use Commission.
- (B) An appeal under this Section requires review by the Environmental Commission.

23-3C-3050 Application for Variance

- (A) For a heritage tree located on public property or a public street or easement, an application requesting a variance to allow removal of the heritage tree may be filed by:
 - (1) a City department, public utility, or political subdivision with the authority to install utility lines or other public facilities in or above the property, street, or easement; or
 - (2) the owner of property adjoining the site of the tree.
- (B) For a heritage tree located on private property, an application requesting a variance to allow removal of the heritage tree may be filed by:
 - (1) the owner of the property on which the tree is located; or
 - (2) the city arborist, if the tree is fatally diseased or is a safety hazard.
- (C) An application requesting a variance to allow removal of a heritage tree must:
 - (1) be filed with the Director of the Development Services Department;
 - (2) include the fee prescribed by ordinance; and
 - (3) include the information prescribed by the Environmental Criteria Manual.
- (D) The application fee is not required if the application is based solely on the criteria in Section 23-3C-2020(D)(3), (4), or (5) (Review Criteria for Permitting Removal of Regulated Trees).

23-3C-3060 Variance Prerequisite

- (A) If a variance, waiver, exemption, modification, or alternative compliance from another City Code provision would eliminate the need for a variance from Section 23-3C-3010 (Removal Prohibited), before requesting a variance to allow removal of a heritage tree on private property the applicant must:
 - (1) request a variance, waiver, exemption, modification or alternative compliance from the Code provisions that would eliminate the need to remove the heritage tree; and
 - (2) obtain a grant or denial of the variance, waiver, exemption, modification or alternative compliance that would eliminate the need to remove the heritage tree.

- (B) The request for a variance to allow removal of a heritage tree may not be considered unless the variance, waiver, exemption, modification or alternative compliance from other City Code provisions is denied.
- (C) The application fee for a variance from another City Code provision required under this Section is waived.
- (D) This Section does not apply to an application for a variance to remove a heritage tree based on the criteria in Section 23-3C-2020(D)(3), (4), or (5) (Review Criteria for Permitting Removal of Regulated Trees).
- (E) The body considering the variance, waiver, exemption, modification, or alternative compliance will consider the community benefit of preserving the heritage tree in determining whether to grant or deny the request for a variance, waiver, exemption, modification or alternative compliance from another City Code provision.
- (F) This Section does not require an applicant to request a variance, waiver, exemption, modification, or alternative compliance if the Director determines that to do so would endanger the public health and safety.

23-3C-3070 Action on Application

- (A) The Director of the Development Services Department shall take action on a variance request to allow removal of a heritage tree:
 - (1) not later than the 15th working day after the complete application is filed;
 - (2) if associated with development activities that have prescribed timelines then deference is given to those timelines; or
 - (3) if a variance, waiver, exemption, modification, or alternative compliance from another City Code provision is required under Section 23-3C-3060 (Variance Prerequisite), not later than the 10th working day after the request is denied.
- (B) If the application is based on a damaged heritage tree constituting an immediate hazard to life or property, the application shall be approved or denied within 24 hours and no application fee is required.

23-3C-3080 Variance Effective Date and Expiration

- (A) Approval of a variance request to allow removal of a heritage tree is effective immediately.
- (B) A variance to allow removal of a heritage tree expires:
 - (1) one year after its effective date, provided that the mitigation conditions in the variance remain in effect until the conditions are met; or
 - (2) for an application that is associated with a pending development plan submitted to the City, when the development permit expires.

Article 23-3D: Water Quality

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23-3D-1010 Intent

The Austin Comprehensive Plan calls for the protection and improvement of the water quality of the city's creeks, lakes, and aquifers for community use and support of aquatic life. Austin's watersheds are the lands that contribute to and sustain our creeks and lakes. Development anywhere within a watershed can have an impact on the water that flows through it and, consequently, the body of water into which it flows. As a result, the protection of these watersheds is critical to the health of the waterways. Water quality degradation primarily stems from urbanization and changing land use conditions that modify watershed hydrology, disrupt aquatic habitat, and increase the level of pollutants in waterways. The physical variability of the region makes some watersheds more vulnerable than others to water pollution, such as those comprising the northern and southern Edwards Aquifer, as well as Lake Austin, one of the principal sources of Austin's drinking water. Streams in the eastern watersheds are more vulnerable to erosion because creek channels cut through deep clay soils instead of bedrock.

Water quality protection is achieved through a combination of regulations, including: setbacks that preserve and restore the natural function of waterways and floodplains; protection of sensitive environmental features like caves, wetlands, springs, and steep slopes; limits on impervious cover to protect natural function and infiltration; limits on grading to minimize site disturbance and maintain natural hydrology; and stormwater control measures that slow down, filter, and beneficially use polluted runoff.

23-3D-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.
- (C) The standards of this Article apply to land development by the City.

23-3D-1030 Descriptions Of Regulated Areas

- (A) This Section describes the watersheds, aquifers, and water zones that are regulated by this Article. A map of these areas is maintained by the Watershed Protection Department and available for inspection at the offices of the Development Services Department.
- (B) The Watershed Protection Department shall determine the boundaries of the areas described in Subsection (D).
- (C) For property within 1,500 feet of a boundary, the director may require that an applicant provide a certified report from a geologist or hydrologist verifying the boundary location.
- (D) In this Article:
 - (1) BARTON SPRINGS ZONE means the Barton Creek watershed and all watersheds that contribute recharge to Barton Springs, including those portions of the Williamson, Slaughter, Onion, Bear, and Little Bear Creek watersheds located in the Edwards Aquifer recharge or contributing zones.
 - (2) BARTON CREEK WATERSHED means the land area that drains to Barton Creek, including Little Barton Creek watershed.
 - (3) EDWARDS AQUIFER is the water-bearing substrata that includes the stratigraphic rock units known as the Edwards Group and Georgetown Formation.
 - (4) EDWARDS AQUIFER CONTRIBUTING ZONE means all land generally to the west and upstream of the Edwards Aquifer recharge zone that provides drainage into the Edwards Aquifer recharge zone.
 - (5) EDWARDS AQUIFER RECHARGE ZONE means all land over the Edwards Aquifer that recharges the aquifer, as determined by the surface exposure of the geologic units comprising the Edwards Aquifer, including the areas overlain with quaternary terrace deposits.
 - (6) SOUTH EDWARDS AQUIFER RECHARGE ZONE means the portion of the Edwards Aquifer recharge zone that is located south of the Colorado River and north of the Blanco River.
 - (7) SUBURBAN WATERSHEDS include all watersheds not otherwise classified as urban, water supply suburban, or water supply rural watersheds, and include:
 - (a) the Brushy, Buttercup, Carson, Cedar, Cottonmouth, Country Club East, Country Club West, Decker, Dry Creek East, Elm Creek, Elm Creek South, Gilleland, Harris Branch, Lake, Lockwood, Maha, Marble, North Fork Dry, Plum, Rattan, Rinard, South Boggy, South Fork Dry, South Brushy, Walnut, and Wilbarger Creek watersheds;
 - (b) the Colorado River watershed downstream of U.S. 183; and
 - (c) those portions of the Onion, Bear, Little Bear, Slaughter, and Williamson creek watersheds not located in the Edwards Aquifer recharge or contributing zones.
 - (8) URBAN WATERSHEDS include:
 - (a) the Blunn, Buttermilk, Boggy, East Bouldin, Fort, Harper's Branch, Johnson, Little Walnut, Shoal, Tannehill, Waller, and West Bouldin Creek watersheds;
 - (b) the north side of the Colorado River watershed from Johnson Creek to U.S. 183; and

- (c) the south side of the Colorado River watershed from Barton Creek to U.S. 183.
- (9) WATER SUPPLY RURAL WATERSHEDS include:
- (a) the Lake Travis watershed;
 - (b) the Lake Austin watershed, excluding the Bull Creek watershed and the area to the south of Bull Creek and the east of Lake Austin; and
 - (c) the Bear West, Bee, Bohl's Hollow, Cedar Hollow, Coldwater, Commons Ford, Connors, Cuernavaca, Harrison Hollow, Hog Pen, Honey, Little Bee, Panther Hollow, Running Deer, St. Stephens, Steiner, and Turkey Creek watersheds.
- (10) WATER SUPPLY SUBURBAN WATERSHEDS include:
- (a) the Bull, Eanes, Dry Creek North, Huck's Slough, Taylor Slough North, Taylor Slough South, and West Bull Creek watersheds;
 - (b) the Lady Bird Lake watershed on the south side of Lady Bird Lake from Barton Creek to Tom Miller Dam;
 - (c) the Lady Bird Lake watershed on the north side of Lady Bird Lake from Johnson Creek to Tom Miller Dam; and
 - (d) the Lake Austin watershed on the east side of Lake Austin from Tom Miller Dam to Bull Creek.

23-3D-1040 Engineer's Certification

An engineer shall certify a plan or plat as complete, accurate, and in compliance with the standards of this Article. The director may waive this standard after making a determination that the plan or plat includes only minor alterations or improvements that do not require the services of an engineer.

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Division 23-3D-2: Exceptions and Variances

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23-3D-2010 Special Exceptions; Limited Adjustment

- (A) Except as prohibited by Division 23-3D-9 (Save Our Springs Initiative), a special exception from the standards of this Article may be granted in compliance with Chapter 23-2 (Administration And Procedures).
- (B) If a three-quarters majority of the Council concludes, or a court of competent jurisdiction renders a final judgment concluding that identified sections of this Article, as applied to a specific development or proposal violate the United States Constitution or the Texas Constitution or are inconsistent with federal or state statutes that may preempt a municipal ordinance or the Austin City Charter, the Council may, after a public hearing, adjust the application of this Article to that development to the minimum extent required to comply with the conflicting law. Any adjustment must be structured to provide the maximum protection of water quality.

23-3D-2020 Condemnation And Accessibility Exceptions

- (A) This Subsection applies to property that has existing development or that is included in an approved site plan if the development on the property is reconfigured as a result of right-of-way condemnation.
 - (1) The accountable official may approve the replacement of development that existed in the condemned area of the property onto the remainder of the property.
 - (2) For development that may be replaced in compliance with Subsection (A)(1), the director may vary the standards of this Article for development in the water quality transition zone and the critical water quality zone and the limitations of this Article on impervious cover after making a determination that the replacement development will not increase the pollutant loading.
- (B) For property that had existing development or that was included in a released site plan on March 10, 1996, the accountable official may approve additional development that exceeds the impervious cover limitations of this Title if the director determines that the

increased impervious cover is necessary to comply with the accessibility standards of the Americans With Disabilities Act or the Uniform Building Code.

23-3D-2030 Redevelopment Exception In Urban And Suburban Watersheds

- (A) This Section applies to property located in an urban or suburban watershed that has existing development if:
 - (1) no unpermitted development occurred on the site after January 1, 1992; and
 - (2) the applicant files a site plan application and an election for the property to be governed by this Section.
- (B) The standards of this Article do not apply to the redevelopment of the property if the redevelopment:
 - (1) does not increase the existing amount of impervious cover;
 - (2) provides the level of water quality treatment prescribed by current standards for the redeveloped area or an equivalent area on the site;
 - (3) does not generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property;
 - (4) is consistent with the neighborhood plan adopted by Council, if any;
 - (5) does not increase non-compliance, if any, with Section 23-3D-4040 (Critical Water Quality Zone Development), Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), Section 23-3D-5030 (Critical Environmental Features), or Section 23-3D-5040 (Wetland Protection); and
 - (6) does not place redevelopment within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.
- (C) The redevelopment must comply with construction phase environmental standards in effect at the time of construction, including Division 23-3D-7 (Erosion and Sedimentation Control).

23-3D-2040 Redevelopment Exception In The Barton Springs Zone

- (A) This Section applies to property located in the Barton Springs Zone that has existing commercial, civic, or industrial development if:
 - (1) no unpermitted development occurred on the site after January 1, 1992; and
 - (2) the applicant files a site plan application and an election for the property to be governed by this Section.
- (B) For property governed by this Section, this Section supersedes Division 23-3D-9 (Save Our Springs Initiative), to the extent of conflict.
- (C) In this Section:
 - (1) SEDIMENTATION/FILTRATION POND means water quality controls that comply with Section 23-3D-6030 (Water Quality Control and Beneficial Use Standards) or are

approved in compliance with Section 23-3D-6110 (Innovative Management Practices); and

- (2) SOS POND means water quality controls that comply with all standards of Section 23-3D-6030 (Water Quality Control and Beneficial Use Standards) and the pollutant removal standards of Section 23-3D-9040(A) (Pollution Prevention Required).
- (D) The standards of this Article do not apply to the subdivision of property if at the time of redevelopment in compliance with this Section subdivision and site plan applications are filed concurrently.
- (E) The standards of this Article do not apply to the redevelopment of property if the redevelopment meets all of the following conditions:
 - (1) The redevelopment may not increase the existing amount of impervious cover on the site.
 - (2) The redevelopment may not increase non-compliance, if any, with Section 23-3D-4040 (Critical Water Quality Zone Development), Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), Section 23-3D-4060 (Water Quality Transition Zone Development), Section 23-3D-5030 (Critical Environmental Features), or Section 23-3D-5040 (Wetland Protection).
 - (3) The redevelopment must comply with construction phase environmental standards in effect at the time of construction, including Division 23-3D-7 (Erosion and Sedimentation Control) and Section 23-3D-6100 (Fiscal Security in the Barton Springs Zone).
 - (4) The water quality controls on the redevelopment site must provide a level of water quality treatment that is equal to or greater than that which was previously provided.
 - (5) For a commercial, civic, industrial, or multi-family redevelopment, the owner or operator shall obtain a permit in compliance with Section 23-3D-6090 (Barton Springs Zone Operating Permit) for both sedimentation/filtration ponds and SOS ponds.
 - (6) For a site with more than 40 percent net site area impervious cover, the redevelopment must have:
 - (a) sedimentation/filtration ponds for the entire site; or
 - (b) SOS ponds for a portion of the site, and sedimentation/filtration ponds for the remainder of the redeveloped site.
 - (7) For a site with 40 percent or less net site area impervious cover, the redevelopment must have SOS ponds for the entire site.
 - (8) The applicant shall mitigate the effects of the redevelopment, if required by and in compliance with Subsection (H).
 - (9) Redevelopment may not be located within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.
- (F) Council approval of a redevelopment in compliance with Subsection (G) is required if the redevelopment:
 - (1) includes more than 25 dwelling units;
 - (2) is located outside the City's zoning jurisdiction;
 - (3) is proposed on property with an existing industrial or civic use;

- (4) is inconsistent with a neighborhood plan; or
 - (5) will generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property.
- (G) Council shall consider the following factors in determining whether to approve a proposed redevelopment:
- (1) benefits of the redevelopment to the community;
 - (2) whether the proposed mitigation or manner of development offsets the potential environmental impact of the redevelopment;
 - (3) the effects of offsite infrastructure requirements of the redevelopment; and
 - (4) compatibility with the City's long-range planning goals.
- (H) Redevelopment of property in compliance with this Section requires the purchase or restriction of mitigation land if the site has a sedimentation/filtration pond.
- (1) The combined gross site area impervious cover of the mitigation land and the portion of the redevelopment site treated by sedimentation/filtration ponds may not exceed 20 percent.
 - (2) The mitigation standard may be satisfied by:
 - (a) paying into the Barton Springs Zone Mitigation Fund a non-refundable amount established by ordinance;
 - (b) transferring to the City in compliance with Paragraph (3) mitigation land approved by the Watershed Protection Department within a watershed that contributes recharge to Barton Springs, either inside or outside the City's jurisdiction;
 - (c) placing restrictions in compliance with Paragraph (3) on mitigation land approved by the Watershed Protection Department within a watershed that contributes recharge to Barton Springs, either inside or outside the City's jurisdiction; or
 - (d) a combination of the mitigation methods described in Subparagraphs (a) - (c), if approved by the Watershed Protection Department.
 - (3) An applicant redeveloping in compliance with this Section shall pay all costs of restricting the mitigation land or transferring the mitigation land to the City, including the costs of:
 - (a) an environmental site assessment without any recommendations for further clean-up, certified to the City not earlier than the 120th day before the closing date transferring land to the City;
 - (b) a category 1(a) land title survey, certified to the City and the title company not earlier than the 120th day before the closing date transferring land to the City;
 - (c) a title commitment with copies of all Schedule B and C documents, and an owner's title policy;
 - (d) a fee simple deed, or, for a restriction, a restrictive covenant approved as to form by the City Attorney;
 - (e) taxes prorated to the closing date;
 - (f) recording fees; and
 - (g) charges or fees collected by the title company.

- (I) The Watershed Protection Department shall adopt rules to identify criteria for director approval in compliance with this Section to ensure that the proposed mitigation, manner of development, and water quality controls offset the potential environmental impact of the redevelopment.

23-3D-2050 Redevelopment Exception In The Water Supply Rural And Water Supply Suburban Watersheds

- (A) This Section applies to property located in a water supply rural or water supply suburban watershed that has existing commercial, civic, or industrial development or existing residential development with greater than two dwelling units per lot if:
 - (1) no unpermitted development occurred on the site after January 1, 1992; and
 - (2) the applicant files a site plan application and an election for the property to be governed by this Section.
- (B) In this Section, SEDIMENTATION/ FILTRATION POND means water quality controls that comply with Section 23-3D-6030 (Water Quality Control and Beneficial Use Standards) or are approved in compliance with Section 23-3D-6110 (Innovative Management Practices).
- (C) The standards of this Article do not apply to the subdivision of property if at the time of redevelopment in compliance with this Section subdivision and site plan applications are filed concurrently.
- (D) The standards of this Article do not apply to the redevelopment of property if the redevelopment meets all of the following conditions:
 - (1) The redevelopment may not increase the existing amount of impervious cover on the site.
 - (2) The redevelopment may not increase non-compliance, if any, with Section 23-3D-4040 (Critical Water Quality Zone Development), Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), Section 23-3D-4060 (Water Quality Transition Zone Development), Section 23-3D-5030 (Critical Environmental Features), or Section 23-3D-5040 (Wetland Protection).
 - (3) The redevelopment must comply with construction phase environmental standards in effect at the time of construction, including Division 23-3D-7 (Erosion and Sedimentation Control).
 - (4) The water quality controls for the redeveloped areas or an equivalent area on the site must provide a level of water quality treatment that is equal to or greater than that which was previously provided. At a minimum, the site must provide sedimentation/ filtration ponds for the redeveloped area or an equivalent area on the site.
 - (5) The applicant shall mitigate the effects of the redevelopment, if required by and in compliance with Subsection (G).
 - (6) Redevelopment may not be located within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.
- (E) Council approval of a redevelopment in compliance with Subsection (F) is required if the redevelopment:
 - (1) includes more than 25 additional dwelling units;

- (2) is located outside the City's zoning jurisdiction;
 - (3) is proposed on property with an existing industrial use;
 - (4) is inconsistent with a neighborhood plan; or
 - (5) will generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property.
- (F) Council shall consider the following factors in determining whether to approve a proposed redevelopment:
- (1) benefits of the redevelopment to the community;
 - (2) whether the proposed mitigation or manner of development offsets the potential environmental impact of the redevelopment;
 - (3) the effects of off-site infrastructure requirements of the redevelopment; and
 - (4) compatibility with the City's long-range planning goals.
- (G) Redevelopment of property in compliance with this Section requires the purchase or restriction of mitigation land.
- (1) The combined gross site area impervious cover of the mitigation land and the portion of the redevelopment treated by sedimentation/filtration ponds may not exceed 20 percent if in a water supply rural watershed or 40 percent if in a water supply suburban watershed.
 - (2) The mitigation standard may be satisfied by:
 - (a) paying into the Water Supply Mitigation Fund a nonrefundable amount established by ordinance;
 - (b) transferring to the City in compliance with Paragraph (3) mitigation land approved by the Watershed Protection Department within a water supply rural or water supply suburban watershed, either inside or outside the City's jurisdiction;
 - (c) placing restrictions in compliance with Paragraph (3) on mitigation land approved by the Watershed Protection Department within a water supply rural or water supply suburban watershed, either inside or outside the City's jurisdiction; or
 - (d) a combination of the mitigation methods described in Subparagraphs (a) - (c), if approved by the Watershed Protection Department.
 - (3) An applicant redeveloping in compliance with this Section shall pay all costs of restricting the mitigation land or transferring the mitigation land to the City, including the costs of:
 - (a) an environmental site assessment without any recommendations for further clean-up, certified to the City not earlier than the 120th day before the closing date transferring land to the City;
 - (b) a category 1(a) land title survey, certified to the City and the title company not earlier than the 120th day before the closing date transferring land to the City;
 - (c) a title commitment with copies of all Schedule B and C documents, and an owner's title policy;
 - (d) a fee simple deed, or, for a restriction, a restrictive covenant approved as to form by the City Attorney;

- (e) taxes prorated to the closing date;
 - (f) recording fees; and
 - (g) charges or fees collected by the title company.
- (H) The Watershed Protection Department shall adopt rules to identify criteria for director approval in compliance with this Section to ensure that the proposed mitigation, manner of development, and water quality controls offset the potential environmental impact of the redevelopment.

23-3D-2060 Land Use Commission Variances

- (A) It is the applicant's burden to establish that the findings described in this Section have been met. Except as provided in Subsections (B) and (C), the Land Use Commission may grant a variance from a standard of this Article after determining that:
 - (1) the standard will deprive the applicant of a privilege or the safety of property given to owners of other similarly situated property with approximately contemporaneous development;
 - (2) the variance:
 - (a) is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;
 - (b) is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property; and
 - (c) does not create a significant probability of harmful environmental consequences; and
 - (3) development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.
- (B) The Land Use Commission may grant a variance from a standard of Section 23-3D-4040 (Critical Water Quality Zone Development), Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), Section 23-3D-4060 (Water Quality Transition Zone Development), or Section 23-3D-8120 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long), after determining that:
 - (1) the criteria for granting a variance in Subsection (A) are met;
 - (2) the standard for which a variance is requested prevents a reasonable, economic use of the entire property; and
 - (3) the variance is the minimum change necessary to allow a reasonable, economic use of the entire property.
- (C) The Land Use Commission may not grant a variance from a standard of Division 23-3D-9 (Save Our Springs Initiative).
- (D) The Land Use Commission shall prepare written findings of fact to support the grant or denial of a variance request in compliance with this Section.

23-3D-2070 Administrative Variances

- (A) A variance in compliance with this Section may not vary the standards of Division 23-3D-9 (Save Our Springs Initiative) and may not be granted for development of a property if any portion of the property abuts or is within 500 feet of the shoreline of Lake Austin, measured horizontally.
- (B) The Watershed Protection Department may grant a variance from a standard of:
 - (1) Section 23-3D-4040 (Critical Water Quality Zone Development), only if:
 - (a) necessary to protect public health and safety, or if it would provide a significant, demonstrable environmental benefit, as determined by a functional assessment of floodplain health as prescribed in the Environmental Criteria Manual;
 - (b) necessary to allow an athletic field in existence on October 28, 2013, to be maintained, improved, or replaced;
 - (c) necessary to allow an athletic field to be located in an area not otherwise allowed in compliance with Section 23-3D-4040(B)(7); or
 - (d) necessary to allow a hard surfaced trail to be located in an area not otherwise allowed in compliance with Section 23-3D-4040(B)(5);
 - (2) Section 23-3D-4040 (Critical Water Quality Zone Development), for development within an urban watershed, only if the proposed development:
 - (a) is located not less than 25 feet from the centerline of a waterway;
 - (b) is located outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual;
 - (c) does not increase non-compliance, if any, with Section 23-3D-4040 (Critical Water Quality Zone Development), Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), Section 23-3D-5030 (Critical Environmental Features), or Section 23-3D-5040 (Wetland Protection); and
 - (d) restores native vegetation and soils if development is removed from the critical water quality zone;
 - (3) Subsection 23-3D-4050(A)(3) (Critical Water Quality Zone Street, Driveway, and Trail Crossings), only outside the Barton Springs Zone;
 - (4) Section 23-3D-5030 (Critical Environmental Features);
 - (5) Section 23-3D-8020 (Interbasin Diversion);
 - (6) Section 23-3D-8050 (Clearing for a Roadway);
 - (7) Section 23-3D-8060 (Cut Standards) or Section 23-3D-8070 (Fill Standards), for a water quality control or detention facility and appurtenances for conveyance including but not limited to swales, drainage ditches, and diversion berms;
 - (8) Section 23-3D-8060 (Cut Standards) or Section 23-3D-8070 (Fill Standards), for a cut or fill of not more than eight feet in the desired development zone; or
 - (9) Subsection 23-3D-8080(A) (Spoil Disposal).
- (C) It is the applicant's burden to establish that the findings described in this Section have been met

- (D) The Watershed Protection Department may grant a variance described in Subsection (B) only after determining that development in compliance with the variance meets the objective of the standard for which the variance is requested and:
- (1) for property in the Barton Springs Zone, the variance will result in water quality that is at least equal to the water quality achievable without the variance;
 - (2) for a variance from Section 23-3D-4040(B)(7), that the proposed work on or placement of the athletic field will have no adverse environmental impacts;
 - (3) for a variance from Section 23-3D-4050(A)(3), that the design of the crossing will improve creek function or mitigate impacts to the creek as prescribed in the Environmental Criteria Manual;
 - (4) for a variance from Section 23-3D-5030, that the proposed measures preserve all characteristics of the critical environmental feature;
 - (5) for a variance from Section 23-3D-8020, there are no adverse environmental or drainage impacts;
 - (6) for a variance from Section 23-3D-8060 or Section 23-3D-8070 the cut or fill is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway; and
 - (7) for a variance from Section 23-3D-8080(A), use of the spoil provides a necessary public benefit. Necessary public benefits include:
 - (a) roadways;
 - (b) stormwater detention facilities;
 - (c) public or private park sites; and
 - (d) building sites that comply with Section 23-3D-8060 (Cut Standards), 23-3D-8070 (Fill Standards), and Article 23-10E (Drainage).
- (E) The Watershed Protection Department shall prepare written findings to support the grant or denial of a variance request in compliance with this Section.

23-3D-2080 Summary Of Variances

The director shall prepare and maintain for public inspection a written summary of variances granted and denied in compliance with Sections 23-3D-2060 (Land Use Commission Variances) and 23-3D-2070 (Administrative Variances).

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Division 23-3D-3: Impervious Cover

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23-3D-3010 **Applicability Of Impervious Cover Standards**

- (A) The impervious cover standards of this Article do not restrict impervious cover on a single-family or duplex lot but apply to the subdivision as a whole.
- (B) For a subdivision with commercial, civic, industrial, or multi-family lots and an internal roadway, the impervious cover calculation for the platted lots will need to account for the roadway if the roadway exceeds the impervious cover limits within the right-of-way.
- (C) The impervious cover standards of this Article do not apply to an application for a roadway improvement that will not exceed 8,000 square feet of new impervious cover. For the purposes of this Section, roadway improvements are limited to intersection upgrades, low-water crossing upgrades, additions for bicycle lanes, and additions for mass transit stops.

23-3D-3020 **Uplands Zones Established**

An uplands zone includes all land and waters not included in a critical water quality zone or a water quality transition zone.

23-3D-3030 **Net Site Area**

- (A) Net site area includes only the portions of a site that lie in an uplands zone and have not been designated for wastewater irrigation.
- (B) For land described in Subsection (A), net site area is the aggregate of:
 - (1) 100 percent of the land with a gradient of 15 percent or less;

- (2) 40 percent of the land with a gradient of more than 15 percent and not more than 25 percent; and
 - (3) 20 percent of the land with a gradient of more than 25 percent and not more than 35 percent.
- (C) Net site area does not apply in the urban and suburban watersheds.

23-3D-3040 Impervious Cover Calculations

- (A) Impervious cover is calculated in compliance with this Section and the Environmental Criteria Manual.
- (B) Impervious cover calculations include:
 - (1) roads;
 - (2) driveways;
 - (3) parking areas;
 - (4) buildings;
 - (5) concrete;
 - (6) impermeable construction covering the natural land surface;
 - (7) for an uncovered wood deck that has drainage spaces between the deck boards and that is located over a pervious surface, 50 percent of the horizontal area of the deck; and
 - (8) the portion of a site used for the storage of scrap and metal salvage, including auto salvage.
- (C) Impervious cover calculations exclude:
 - (1) sidewalks in a public right-of-way or public easement;
 - (2) multi-use trails open to the public and located on public land or in a public easement;
 - (3) water quality controls, excluding subsurface water quality controls;
 - (4) detention basins, excluding subsurface detention basins;
 - (5) drainage swales and conveyances;
 - (6) ponds, pools, and fountains;
 - (7) areas with gravel placed over pervious surfaces that are used only for landscaping or by pedestrians and are not constructed with compacted base;
 - (8) porous pavement designed in compliance with the Environmental Criteria Manual, limited to only pedestrian walkways and multi-use trails, and located outside the Edwards Aquifer recharge zone;
 - (9) fire lanes designed as prescribed in the Environmental Criteria Manual, that consist of interlocking pavers, and are restricted from routine vehicle access;
 - (10) an access ramp for an existing single-family and duplex residential unit if:
 - (a) a person with a disability requires access to a dwelling entrance that meets the standards of the Residential Code, Section R320.6 (Visitable dwelling entrance);

- (b) the building official determines that the ramp will not pose a threat to public health and safety;
 - (c) the ramp:
 - (i) is no wider than 48 inches, except that any portion of a landing for the ramp required for turns may be no wider than 60 inches; and
 - (ii) may have a hand railing, but may not have a roof or walls; and
 - (d) the ramp is located in a manner that utilizes existing impervious cover to the greatest extent possible if:
 - (i) impervious cover on the property is at or above the maximum amount of impervious cover allowed by this Title; or
 - (ii) if placement of the ramp would result in the property exceeding the maximum amount of impervious cover allowed by this Title; and
- (11) a subsurface portion of a parking structure if the Watershed Protection Department determines that:
- (a) the subsurface portion of the structure:
 - (i) is located within an urban or suburban watershed;
 - (ii) is below the grade of the land that existed before construction of the structure;
 - (iii) is covered by soil with a minimum depth of two feet and an average depth of not less than four feet; and
 - (iv) has an area not greater than fifteen percent of the site;
 - (b) the structure is not associated with a use regulated by Section 1.2.2 of Subchapter F of Chapter 25-2 (Residential Design and Compatibility Standards);
 - (c) the applicant submits an assessment of the presence and depth of groundwater at the site sufficient to determine whether groundwater will need to be discharged or impounded; and
 - (d) the applicant submits documentation that the discharge or impoundment of groundwater from the structure, if any, will be managed to avoid adverse effects on public health and safety, the environment, and adjacent property.

23-3D-3050 Impervious Cover Assumptions

- (A) This Section applies to impervious cover calculations for duplex or single-family lots.
- (B) Except as provided in Subsection (C):
 - (1) for each lot greater than three acres in size, 10,000 square feet of impervious cover is assumed;
 - (2) for each lot greater than one acre and not more than three acres in size, 7,000 square feet of impervious cover is assumed;
 - (3) for each lot greater than 15,000 square feet and not more than one acre in size, 5,000 square feet of impervious cover is assumed;

- (4) for each lot greater than 10,000 square feet and not more than 15,000 square feet in size, 3,500 square feet of impervious cover is assumed; and
- (5) for each lot not more than 10,000 square feet in size, 2,500 square feet of impervious cover is assumed.
- (C) For a lot that is restricted to a lesser amount of impervious cover than prescribed by this Section, the lesser amount of impervious cover is assumed. The manner in which the lot is restricted is subject to the approval of the director.
- (D) Except as provided in Subsection (C), this Section does not restrict impervious cover on an individual lot.
- (E) The applicant shall demonstrate that all proposed duplex or single-family lots have usable lot area that can reasonably accommodate the assumed square footage of impervious cover established by Subsection (B). The usable lot area must account for all applicable waterway setbacks, floodplains, steep slopes, critical environmental features, protected trees, on-site sewage facilities, and other relevant code restrictions.

23-3D-3060 Impervious Cover Limits For Urban Watersheds

- (A) Applicability
 - (1) This Section applies to development in the uplands zone of an urban watershed.
 - (2) Impervious cover limits in this Section are expressed as percentages of gross site area for the entire site.
- (B) Maximum Impervious Cover
 - (1) Maximum impervious cover for development within the City's zoning jurisdiction is established in Section 23-3C (Specific to Zones).
 - (2) Maximum impervious cover for development outside the City's zoning jurisdiction is 80 percent.

23-3D-3070 Impervious Cover Limits For Suburban Watersheds

- (A) Applicability
 - (1) This Section applies to development in the uplands zone of a suburban watershed.
 - (2) Impervious cover limits in this Section are expressed as percentages of gross site area for the entire site.
- (B) Maximum Impervious Cover
 - (1) This Subsection applies in the extraterritorial jurisdiction and in the portions of the Lake, Rattan, Buttercup, South Brushy, and Brushy Creek watersheds that are in the zoning jurisdiction.
 - (a) Impervious cover for a duplex or single-family residential use with a minimum lot size of 5,750 square feet may not exceed:
 - (i) 45 percent; or

- (ii) if development intensity is transferred in compliance with Section 23-3D-3110 (Transfers of Development Intensity), 50 percent.
- (b) Impervious cover for a duplex or single-family residential use with a lot smaller than 5,750 square feet in size may not exceed:
 - (i) 55 percent; or
 - (ii) if development intensity is transferred in compliance with Section 23-3D-3110 (Transfers of Development Intensity), 60 percent.
- (c) Impervious cover for a multi-family residential use may not exceed:
 - (i) 60 percent; or
 - (ii) if development intensity is transferred in compliance with Section 23-3D-3110 (Transfers of Development Intensity), 65 percent.
- (d) Impervious cover for a commercial, civic, or industrial use may not exceed:
 - (i) 65 percent; or
 - (ii) if development intensity is transferred in compliance with Section 23-3D-3110 (Transfers of Development Intensity), 70 percent.
- (e) Impervious cover for mixed use may not exceed:
 - (i) the limits in Subsection (B)(1)(c) for the portion of the ground floor that is multi-family residential;
 - (ii) the limits in Subsection (B)(1)(d) for the portion of the ground floor that is commercial, civic, or industrial; and
 - (iii) impervious cover for the entire site is based on the ratios determined on the ground floor.
- (2) This Subsection applies in the portion of the zoning jurisdiction that is outside the Lake, Rattan, Buttercup, South Brushy, and Brushy Creek watersheds.
 - (a) Impervious cover for a duplex or single-family residential use with a minimum lot size of 5,750 square feet may not exceed:
 - (i) 50 percent; or
 - (ii) if development intensity is transferred in compliance with Section 23-3D-3110 (Transfers of Development Intensity), 60 percent.
 - (b) Impervious cover for a duplex or single-family residential use with a lot smaller than 5,750 square feet in size may not exceed:
 - (i) 55 percent; or
 - (ii) if development intensity is transferred in compliance with Section 23-3D-3110 (Transfers of Development Intensity), 60 percent.
 - (c) Impervious cover for a multi-family residential use may not exceed:
 - (i) 60 percent; or
 - (ii) if development intensity is transferred in compliance with Section 23-3D-3110 (Transfers of Development Intensity), 70 percent.
 - (d) Impervious cover for a commercial, civic, or industrial use may not exceed:

- (i) 80 percent; or
- (ii) if development intensity is transferred in compliance with Section 23-3D-3110 (Transfers of Development Intensity), 90 percent.
- (e) Impervious cover for mixed use may not exceed:
 - (i) the limits in Subsection (B)(2)(c) for the portion of the ground floor that is multi-family residential;
 - (ii) the limits in Subsection (B)(2)(d) for the portion of the ground floor that is commercial, civic, or industrial; and
 - (iii) impervious cover for the entire site is based on the ratios determined on the ground floor.

23-3D-3080 Impervious Cover Limits For Water Supply Suburban Watersheds

- (A) Applicability
 - (1) This Division applies to development in the uplands zone of a water supply suburban watershed.
 - (2) Impervious cover limits in this Section are expressed as percentages of net site area.
- (B) Maximum Impervious Cover
 - (1) Impervious cover for a duplex or single-family residential use may not exceed:
 - (a) 30 percent; or
 - (b) if development intensity is transferred in compliance with Section 23-3D-3110 (Transfers of Development Intensity), 40 percent.
 - (2) Impervious cover for a commercial, civic, industrial, multi-family, or mixed use may not exceed:
 - (a) 40 percent; or
 - (b) if development intensity is transferred in compliance with Section 23-3D-3110 (Transfers of Development Intensity), 55 percent.

23-3D-3090 Impervious Cover And Density Limits For Water Supply Rural Watersheds

- (A) Applicability
 - (1) This Division applies to development in the uplands zone of a water supply rural watershed.
 - (2) Density and impervious cover limits are based on net site area.
- (B) Maximum Impervious Cover and Density
 - (1) For a duplex or single family residential use, density may not exceed:
 - (a) one unit for each two acres, with a minimum lot size of three-quarters acre; or

- (b) if development intensity is transferred in compliance with Section 23-3D-3110 (Transfers of Development Intensity), one unit for each acre, with a minimum lot size of one-half acre.
- (2) This Subsection applies to a cluster housing development that maximizes common open space by grouping housing units to minimize individual yards and has a maximum lot area of 15,000 square feet for detached residential development.
 - (a) Density may not exceed:
 - (i) one unit for each acre; or
 - (ii) if development intensity is transferred in compliance with Section 23-3D-3110 (Transfers of Development Intensity), two units for each acre.
 - (b) At least 40 percent of the uplands area of a site must be retained in or restored to its natural state to serve as a buffer. The buffer must be contiguous to the development, and must receive overland drainage from the developed areas of the site unless a water quality control is provided. Use of the buffer is limited to fences, utilities that cannot reasonably be located elsewhere, irrigation lines not associated with wastewater disposal, and access for site construction. A wastewater disposal area may not be located in the buffer.
- (3) This Subsection applies to a commercial, civic, industrial, multi-family, or mixed use.
 - (a) Impervious cover may not exceed:
 - (i) 20 percent; or
 - (ii) if development intensity is transferred in compliance with Section 23-3D-3110 (Transfers of Development Intensity), 25 percent.
 - (b) At least 40 percent of the uplands area of a site must be retained in or restored to its natural state to serve as a buffer. The buffer must be contiguous to the development, and must receive overland drainage from the developed areas of the site unless a water quality control is provided. Use of the buffer is limited to fences, utilities that cannot reasonably be located elsewhere, irrigation lines not associated with wastewater disposal, and access for site construction. A wastewater disposal area may not be located in the buffer.

23-3D-3100 Impervious Cover Limits For The Barton Springs Zone

- (A) Applicability
 - (1) This Section applies to development in the Barton Springs Zone.
- (B) Maximum Impervious Cover
 - (1) Maximum impervious cover for development in the Barton Springs Zone is established by 23-3D-9040 (Pollution Prevention Required) in Division 23-3D-9 (Save Our Springs Initiative).

23-3D-3110 Transfers Of Development Intensity

- (A) General Standards

- (1) An applicant who qualifies for a development intensity transfer in compliance with this Section shall comply with the standards of this Subsection to effect the transfer.
 - (a) For transfers between two subdivided tracts:
 - (i) An applicant may transfer development intensity to a receiving tract that is within the same watershed classification as the transferring tract. This limitation does not apply if the transferring and receiving tracts are both owned by the applicant and are separated only by property that is also owned by the applicant.
 - (ii) An applicant shall concurrently plat the transferring and receiving tracts and shall transfer all development intensity at that time.
 - (iii) An applicant shall note the development intensity transfer on the plats of the transferring and receiving tracts, in a manner determined by the director.
 - (iv) An applicant shall file in the deed records a restrictive covenant, approved by the City Attorney, that runs with the transferring tract and describes the development intensity transfer.
 - (b) For transfers between two site plans:
 - (i) An applicant may transfer development intensity to a receiving tract that is within the same watershed classification as the transferring tract. This limitation does not apply if the transferring and receiving tracts are both owned by the applicant and are separated only by property that is also owned by the applicant.
 - (ii) The transfer must be noted on the receiving and transferring site plans.
 - (iii) An applicant shall file in the deed records a restrictive covenant, approved by the City Attorney, that runs with the transferring tract and describes the development intensity transfer.
 - (iv) The transfer must occur before the receiving and transferring site plans are released.
 - (c) For transfers within a single site plan, an applicant shall file in the deed records a restrictive covenant, approved by the City Attorney, that runs with the transferring tract and describes the development intensity transfer.

(B) Suburban Watersheds

- (1) An applicant who complies with a provision of this Subsection qualifies for the development intensity transfer described in the provision, subject to the standards in Subsection (A) and the impervious cover limitations in Section 23-3D-3070 (Impervious Cover Limits for Suburban Watersheds).
 - (a) The applicant may transfer 20,000 square feet of impervious cover to an uplands zone for each acre of land in a critical water quality zone:
 - (i) dedicated to the City or another entity approved by the Watershed Protection Department in fee simple and which the City or other approved entity accepts; or
 - (ii) on which restrictions are placed to the benefit of the City or other approved entity and which the City or other approved entity accepts; and
 - (iii) the applicant does not include in impervious calculations elsewhere.

- (b) The applicant may transfer 20,000 square feet of impervious cover to an uplands zone for each acre of land in an uplands zone:
 - (i) located either in the 100-year floodplain or in an environmentally sensitive area as determined by environmental resource inventory and approved by the Watershed Protection Department; and
 - (ii) dedicated to the City or another entity approved by the Watershed Protection Department in fee simple and which the City or other approved entity accepts; or
 - (iii) on which restrictions are placed to the benefit of the City or other approved entity and which the City or other approved entity accepts; and
 - (iv) the applicant does not include in impervious calculations elsewhere.
- (c) Land dedicated in fee simple to the City in compliance with this Subsection may also be credited toward the parkland dedication standards of Article 20-2J (Parkland Dedication).

(C) Water Supply Suburban Watersheds

- (1) An applicant who complies with a provision of this Section qualifies for the development intensity transfer described in the provision, subject to the standards in Subsection (A) and the impervious cover limitations in Section 23-3D-3080 (Impervious Cover Limits for Water Supply Suburban Watersheds).
 - (a) The applicant may transfer 15,000 square feet of impervious cover to an uplands zone for each acre of land in a critical water quality zone or water quality transition zone:
 - (i) dedicated to the City or another entity approved by the Watershed Protection Department in fee simple and which the City or other approved entity accepts; or
 - (ii) on which restrictions are placed to the benefit of the City or other approved entity and which the City or other approved entity accepts; and
 - (iii) the applicant does not include in impervious calculations elsewhere.
 - (b) Land dedicated in fee simple to the City in compliance with this Subsection may also be credited toward the parkland dedication standards of Article 20-2J (Parkland Dedication).

(D) Water Supply Rural Watersheds

- (1) An applicant who complies with a provision of this Section qualifies for the development intensity transfer described in the provision, subject to the standards in Subsection (A) and the impervious cover limitations in Section 23-3D-3090 (Impervious Cover and Density Limits for Water Supply Rural Watersheds).
 - (a) The applicant may transfer one single-family residential housing unit or 6,000 square feet of impervious cover for commercial, civic, industrial, or multi-family development to an uplands zone for each acre of land in a critical water quality zone or water quality transition zone:
 - (i) dedicated to the City or another entity approved by the Watershed Protection Department in fee simple and which the City or other approved entity accepts; or

- (ii) on which restrictions are placed to the benefit of the City or other approved entity and which the City or other approved entity accepts; and
 - (iii) the applicant does not include in impervious calculations elsewhere.
 - (b) Land dedicated in fee simple to the City in compliance with this Subsection may also be credited toward the parkland dedication standards of Article 20-2j (Parkland Dedication).
- (E) Barton Springs Zone
- (1) Development intensity may not be transferred in the Barton Springs Zone except as part of an adjustment in compliance with Section 23-3D-9080 (Limited Adjustment To Resolve Possible Conflicts With Other Laws).

Division 23-3D-4: Waterway and Floodplain Protection

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23-3D-4010 Waterway Classifications

- (A) This Section classifies the waterways according to drainage area.
- (B) In all watersheds except urban:
 - (1) a minor waterway has a drainage area of at least 64 acres and not more than 320 acres;
 - (2) an intermediate waterway has a drainage area of more than 320 acres and not more than 640 acres; and
 - (3) a major waterway has a drainage area of more than 640 acres.

23-3D-4020 Critical Water Quality Zones Established

- (A) In the water supply rural watersheds, water supply suburban watersheds, and Barton Springs Zone, a critical water quality zone is established along each waterway classified by Section 23-3D-4010 (Waterway Classifications).
 - (1) The boundaries of a critical water quality zone coincide with the boundaries of the 100-year floodplain calculated under fully developed conditions as prescribed in the Drainage Criteria Manual, except:
 - (a) for a minor waterway, the boundaries of the critical water quality zone are located not less than 50 feet and not more than 100 feet from the centerline of the waterway;
 - (b) for an intermediate waterway, the boundaries of the critical water quality zone are located not less than 100 feet and not more than 200 feet from the centerline of the waterway;
 - (c) for a major waterway, the boundaries of the critical water quality zone are located not less than 200 feet and not more than 400 feet from the centerline of the waterway; and
 - (d) for the main channel of Barton Creek, the boundaries of the critical water quality zone are located 400 feet from the centerline of the creek.

- (2) Notwithstanding the provisions of Subsections (A)(1)(a), (b), and (c), a critical water quality zone does not apply to a previously modified drainage feature serving a public roadway right-of-way that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition, as prescribed in the Environmental Criteria Manual.
- (B) In the suburban watersheds, a critical water quality zone is established along each waterway classified by Section 23-3D-4010 (Waterway Classifications).
 - (1) For a minor waterway, the boundaries of the critical water quality zone are located 100 feet from the centerline of the waterway;
 - (2) for an intermediate waterway, the boundaries of the critical water quality zone are located 200 feet from the centerline of the waterway; and
 - (3) for a major waterway, the boundaries of the critical water quality zone are located 300 feet from the centerline of the waterway.
 - (4) The critical water quality zone boundaries may be reduced to not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway if the overall surface area of the critical water quality zone is the same or greater than the surface area that would be provided without the reduction, as prescribed in the Environmental Criteria Manual.
 - (5) Notwithstanding the provisions of Subsections (B)(1), (2), and (3), a critical water quality zone does not apply to a previously modified drainage feature serving a public roadway right-of-way that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition.
- (C) Critical water quality zones are established to include the inundated areas that constitute Lake Walter E. Long, Lake Travis, Lake Austin, Lady Bird Lake, and the Colorado River downstream of Lady Bird Lake.
- (D) Critical water quality zones are established along and parallel to the shorelines of Lake Travis, Lake Austin, and Lady Bird Lake.
 - (1) The shoreline boundary of a critical water quality zone:
 - (a) for Lake Travis, coincides with the 681.0 foot contour line;
 - (b) for Lake Austin, coincides with the 492.8 foot contour line; and
 - (c) for Lady Bird Lake, coincides with the 429.0 foot contour line.
 - (2) The width of a critical water quality zone, measured horizontally inland, is:
 - (a) 100 feet; or
 - (b) for a detached single-family residential use, 75 feet.
- (E) Critical water quality zones are established along and parallel to the shorelines of the Colorado River downstream of Lady Bird Lake.
 - (1) The shoreline boundary of a critical water quality zone coincides with the river's ordinary high water mark, as defined by Code of Federal Regulations Title 33, Section 328.3 (Definitions).
 - (2) The inland boundary of a critical water quality zone coincides with the boundary of the 100-year floodplain as delineated by the Federal Emergency Management Agency,

except that the width of the critical water quality zone, measured horizontally inland, is not less than 200 feet and not more than 400 feet.

- (F) In an urban watershed, a critical water quality zone is established along each waterway with a drainage area of at least 64 acres. This does not apply in the area bounded by Interstate Highway 35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.
 - (1) The boundaries of the critical water quality zone coincide with the boundaries of the 100-year floodplain calculated under fully developed conditions as prescribed in the Drainage Criteria Manual; provided that the boundary is not less than 50 feet and not more than 400 feet from the centerline of the waterway.
 - (2) Notwithstanding the provisions of Subsection (F)(1), a critical water quality zone does not apply to a previously modified drainage feature serving a public roadway right-of-way that does not possess any natural and traditional character and cannot reasonably be restored to a natural condition.

23-3D-4030 Water Quality Transition Zones Established

- (A) In the water supply rural watersheds, water supply suburban watersheds, and in the Barton Springs Zone, excluding Lake Austin, Lake Travis, and Lady Bird Lake, a water quality transition zone is established adjacent and parallel to the outer boundary of each critical water quality zone.
- (B) The width of a water quality transition zone is:
 - (1) for a minor waterway, 100 feet;
 - (2) for an intermediate waterway, 200 feet; and
 - (3) for a major waterway, 300 feet.

23-3D-4040 Critical Water Quality Zone Development

In all watersheds, development is prohibited in a critical water quality zone except as provided in this Division. Development allowed in the critical water quality zone in compliance with this Division must be revegetated and restored within the limits of construction as prescribed in the Environmental Criteria Manual.

- (A) A fence that does not obstruct flood flows is allowed in a critical water quality zone.
- (B) Low impact park development is allowed in a critical water quality zone subject to the conditions in this Subsection.
 - (1) Low impact park development includes a multi-use trail, golf cart path, the portions of a golf course left in a natural state, and an area intended for outdoor activities which does not significantly alter the existing natural vegetation, drainage patterns, or increase erosion. Low impact park development does not include a parking lot.
 - (2) A program of fertilizer, pesticide, and herbicide use is approved by the Watershed Protection Department.
 - (3) In a water supply rural watershed, water supply suburban watershed, or the Barton Springs Zone, low impact park development is limited to sustainable urban agriculture

or a community garden if the standards in Subsection (B)(6) are met, multi-use trails, picnic facilities, and outdoor facilities, excluding stables, corrals for animals, and athletic fields.

- (4) A master planned park that is approved by the Council may include recreational development other than that described in Subsection (B)(3).
 - (5) A hard surfaced trail that does not cross the critical water quality zone may be located within the critical water quality zone only if:
 - (a) designed in compliance with the Environmental Criteria Manual;
 - (b) located outside the erosion hazard zone unless protective works are provided as prescribed in the Drainage Criteria Manual;
 - (c) limited to 12 feet in width unless a wider trail is designated in the Urban Trails Master Plan, the Parks and Recreation Long Range Plan, or an adopted park master plan;
 - (d) located not less than 25 feet from the centerline of a waterway if within an urban watershed and not crossing the critical water quality zone; and
 - (e) located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway if within a watershed other than an urban watershed and not crossing the critical water quality zone.
 - (6) Low impact park development may include sustainable urban agriculture or a community garden only if:
 - (a) in an urban watershed and located not less than 25 feet from the centerline of a waterway, or in a watershed other than an urban watershed and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway;
 - (b) designed in compliance with the Environmental Criteria Manual; and
 - (c) limited to garden plots and paths, with no storage facilities or other structures over 500 square feet.
 - (7) In a suburban or urban watershed, low impact park development may include an athletic field only if:
 - (a) the athletic field is in an urban watershed and located not less than 25 feet from the centerline of a waterway, or is in a suburban watershed and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway; and
 - (b) the applicant submits to the Watershed Protection Department a maintenance plan to keep the athletic field well vegetated and minimize compaction, as prescribed in the Environmental Criteria Manual.
- (C) The standards of this Subsection apply along Lake Travis, Lake Austin, or Lady Bird Lake.
- (1) A dock, public boat ramp, bulkhead or marina, and necessary access and appurtenances, are allowed in a critical water quality zone subject to compliance with Division 23-3D-8 (Docks, Bulkheads, and Shoreline Access). For a single-family residential use, necessary access may not exceed the minimum area of land

disturbance required to construct a single means of access from the shoreline to a dock.

- (2) Disturbed areas must be restored in compliance with the Environmental Criteria Manual and the following standards:
 - (a) Within a lakefront critical water quality zone, or an equivalent area within 25 feet of a shoreline, restoration must include:
 - (i) at least one native shade tree and one native understory tree, per 500 square feet of disturbed area; and
 - (ii) one native shrub per 150 square feet of disturbed area; and
 - (b) Remaining disturbed areas must be restored per standard specifications for native restoration.
- (3) Within the shoreline setback area defined by Section 23-3C-3050 (Lake Austin (LA) Residential Zone) and within the overlay established by Section 23-3C-7110 (Lake Austin Overlay Zone), no more than 30 percent of the total number of shade trees of 8 inches or greater, as designated in the Environmental Criteria Manual, may be removed.
- (4) Before a building permit may be issued or a site plan released, approval by the Watershed Protection Department is required for chemicals used to treat building materials that will be submerged in water.
- (5) Bank erosion above the 100-year floodplain may be stabilized within a lakefront critical water quality zone if the restoration meets the standards of Subsection (C)(2) of this Section.
- (6) A retaining wall, bulkhead, or other erosion protection device must be designed and constructed to minimize wave return and wave action in compliance with the Environmental Criteria Manual. A shoreline modification within the wave action zone with a greater than 45 degree vertical slope for any portion greater than one foot in height is not allowed on or adjacent to the shoreline of a lake, unless the shoreline modification is located within an existing man-made channel.
- (D) A utility line, including a storm drain, is prohibited in the critical water quality zone, except as provided in Subsection (E) or for a necessary crossing. A necessary utility crossing may cross into or through a critical water quality zone only if:
 - (1) the utility line follows the most direct path into or across the critical water quality zone to minimize disturbance;
 - (2) the depth of the utility line and location of associated access shafts are not located within an erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual; and
 - (3) in the Barton Springs Zone, is approved by the Watershed Protection Department.
- (E) In the urban and suburban watersheds, a utility line may be located parallel to and within the critical water quality zone if:
 - (1) in an urban watershed and located not less than 50 feet from the centerline of a waterway, or in a watershed other than urban and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway;
 - (2) designed in compliance with the Environmental Criteria Manual;

- (3) located outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual; and
 - (4) the development includes either riparian restoration of an area within the critical water quality zone equal in size to the area of disturbance in compliance with the Environmental Criteria Manual, or payment into the Riparian Zone Mitigation Fund of a non-refundable amount established by ordinance.
- (F) Detention basins and wet ponds are prohibited in the critical water quality zone unless the standards of Section 23-3D-4070 (Floodplain Modification), Article 23-10E (Drainage), and the other provisions of this Article are met.
- (G) Floodplain modifications are prohibited in the critical water quality zone unless:
- (1) the floodplain modifications proposed are necessary to protect the public health and safety;
 - (2) the floodplain modifications proposed would provide a significant, demonstrable environmental benefit, as determined by a functional assessment of floodplain health as prescribed in the Environmental Criteria Manual; or
 - (3) the floodplain modifications proposed are necessary for development allowed in the critical water quality zone by Section 23-3D-4040 (Critical Water Quality Zone Development), 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), or Section 23-3D-8120 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long).
- (H) In the urban and suburban watersheds, vegetative filter strips, rain gardens, biofiltration ponds, areas used for irrigation or infiltration of stormwater, or other controls as prescribed in rule are allowed in the critical water quality zone if:
- (1) in an urban watershed and located not less than 50 feet from the centerline of a waterway, or in a watershed other than urban and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway;
 - (2) located outside the 100-year floodplain; and
 - (3) located outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.
- (I) A residential lot that is 5,750 square feet or less in size may not include any portion of a critical water quality zone.
- (J) For the purposes of calculating the centerline of a waterway in an urban watershed in compliance with this Section, the waterway must have a drainage area of at least 64 acres and be located outside the area bounded by Interstate Highway 35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.

23-3D-4050 Critical Water Quality Zone Street, Driveway, And Trail Crossings

- (A) A public street, private street, or driveway may not cross the critical water quality zone of any waterway unless:
- (1) necessary to comply with the standards of 23-X-XXX (Connectivity) or necessary to provide primary access to at least two contiguous acres or at least five residential units;

- (2) the alignment minimizes disturbance to the creek, riparian zone, and other environmental features as specified in the Environmental Criteria Manual; and
 - (3) the crossing does not utilize culverts and is designed in compliance with the Drainage and Environmental Criteria Manuals.
- (B) Notwithstanding Subsection (A), improvements are allowed to existing public streets, private streets, and driveways crossing the critical water quality zone that are determined by the Watershed Protection Department to be necessary to protect public health and safety for the purposes of flood mitigation or erosion.
- (C) In all watersheds, multi-use trails may cross a critical water quality zone of any waterway if:
 - (1) designed in compliance with the Environmental Criteria Manual; and
 - (2) the development demonstrates no additional adverse impact from flood or erosion potential.

23-3D-4060 Water Quality Transition Zone Development

- (A) Water Supply Suburban Watersheds
 - (1) Development is prohibited in a water quality transition zone that lies over the South Edwards Aquifer recharge zone, except for:
 - (a) development described in Section 23-3D-4040 (Critical Water Quality Zone Development) or Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings); and
 - (b) minor drainage facilities or water quality controls that comply with Section 23-3D-4070 (Floodplain Modification) and the floodplain modification criteria in the Environmental Criteria Manual.
 - (2) In a water quality transition zone that does not lie over the South Edwards Aquifer recharge zone, the impervious cover of the land area of a site may not exceed 18 percent. In determining land area, land in the 100-year floodplain is excluded.
 - (3) Water quality controls may be located in a water quality transition zone that does not lie over the South Edwards Aquifer recharge zone.
- (B) Water Supply Rural Watersheds
 - (1) Development is prohibited in a water quality transition zone that lies over the South Edwards Aquifer recharge zone, except for:
 - (a) development described in Section 23-3D-4040 (Critical Water Quality Zone Development) or Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings); and
 - (b) minor drainage facilities or water quality controls that comply with Section 23-3D-4070 (Floodplain Modification) and the floodplain modification criteria in the Environmental Criteria Manual.
 - (2) Development is prohibited in a water quality transition zone that lies outside the South Edwards Aquifer recharge zone, except for:

- (a) development described in Section 23-3D-4040 (Critical Water Quality Zone Development) or Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings);
 - (b) minor drainage facilities or water quality controls that comply with Section 23-3D-4070 (Floodplain Modification) and the floodplain modification guidelines of the Environmental Criteria Manual;
 - (c) streets; and
 - (d) duplex or single-family residential development with a minimum lot size of two acres and a density of not more than one unit for each three acres, excluding acreage in the 100-year floodplain.
- (3) A lot that lies within a critical water quality zone must also include at least two acres in a water quality transition zone or uplands zone.
- (C) Barton Springs Zone Watersheds
 - (1) Development is prohibited in a water quality transition zone that lies over the South Edwards Aquifer recharge zone, except for:
 - (a) development described in Section 23-3D-4040 (Critical Water Quality Zone Development) or Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings); and
 - (b) minor drainage facilities or water quality controls that comply with Section 23-3D-4070 (Floodplain Modification) and the floodplain modification criteria in the Environmental Criteria Manual.
 - (2) Development is prohibited in a water quality transition zone that lies outside the South Edwards Aquifer recharge zone, except for:
 - (a) development described in Section 23-3D-4040 (Critical Water Quality Zone Development) or Section 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings);
 - (b) minor drainage facilities or water quality controls that comply with Section 23-3D-4070 (Floodplain Modification) and the floodplain modification guidelines of the Environmental Criteria Manual;
 - (c) streets; and
 - (d) duplex or single-family residential housing with a minimum lot size of two acres and a density of not more than one unit for each three acres, excluding acreage in the 100-year floodplain.

23-3D-4070 Floodplain Modification

- (A) Floodplain modification within a critical water quality zone is prohibited except as allowed in compliance with Section 23-3D-4040 (Critical Water Quality Zone Development).
- (B) Floodplain modification outside a critical water quality zone is prohibited except as allowed in this Section.
- (C) Floodplain modification is allowed only if the modification proposed:
 - (1) is necessary to protect the public health and safety;

- (2) would provide a significant, demonstrable environmental benefit, as determined by a functional assessment of floodplain health as prescribed in the Environmental Criteria Manual;
 - (3) is located within a floodplain area classified as in fair or poor condition, as determined by a functional assessment of floodplain health as prescribed in the Environmental Criteria Manual; or
 - (4) is necessary for development allowed by Section 23-3D-4040 (Critical Water Quality Development), 23-3D-4050 (Critical Water Quality Zone Street, Driveway, and Trail Crossings), or Section 23-3D-8120 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long).
- (D) Floodplain modifications must:
- (1) be designed to accommodate existing and fully-vegetated conditions;
 - (2) encourage sound engineering and ecological practices, prevent and reduce degradation of water quality, and encourage the stability and integrity of floodplains and waterways, as prescribed in the floodplain modification criteria in the Environmental Criteria Manual;
 - (3) restore floodplain health, or provide mitigation if restoration is infeasible, to support natural functions and processes as prescribed in the floodplain modification criteria in the Environmental Criteria Manual; and
 - (4) comply with the standards of Article 23-10E (Drainage), the Drainage Criteria Manual, and the Environmental Criteria Manual.
- (E) If mitigation is required by this Section, it may be satisfied by:
- (1) paying into the Riparian Zone Mitigation Fund a nonrefundable amount established by ordinance;
 - (2) transferring in fee simple or placing restrictions on mitigation land approved by the Watershed Protection Department and meeting the following conditions:
 - (a) located within the same watershed classification;
 - (b) in compliance with the procedures in Section 23-3D-2040 (Redevelopment Exception in the Barton Springs Zone), Subsection (H)(3);
 - (c) dedicated to or restricted for the benefit of the City or another entity approved by the Watershed Protection Department and which the City or other approved entity accepts; and
 - (d) an amount proportionate to the amount of area within the existing floodplain that is proposed to be modified, as prescribed in the Environmental Criteria Manual; or
 - (3) a combination of the mitigation methods described in Subparagraphs (1) and (2), if approved by the Watershed Protection Department.

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Division 23-3D-5: Protection for Special Features

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23-3D-5010 Environmental Resource Inventory

- (A) An applicant shall file an environmental resource inventory with the director for proposed development within a site located:
 - (1) over a karst aquifer;
 - (2) within an area draining to a karst aquifer or reservoir;
 - (3) in a water quality transition zone;
 - (4) in a critical water quality zone;
 - (5) in a floodplain; or
 - (6) on a tract with a gradient of more than 15 percent.
- (B) An environmental resource inventory must:
 - (1) identify critical environmental features and propose protection measures for the features;
 - (2) provide an environmental justification for spoil disposal locations or roadway alignments;
 - (3) propose methods to achieve overland flow;
 - (4) describe proposed industrial uses and the pollution abatement program; and
 - (5) be completed as prescribed in the Environmental Criteria Manual.
- (C) An environmental resource inventory must include the following elements:
 - (1) Hydrogeologic Report
 - (a) generally describe the topography, soils, and geology of the site;
 - (b) identify springs and significant point recharge features on the site;
 - (c) demonstrate that proposed drainage patterns will protect the quality and quantity of recharge at significant point recharge features; and
 - (d) identify all recorded and unrecorded water wells, both on the site and within 150 feet of the boundary of the site.
 - (2) Vegetation Report
 - (a) demonstrate that the proposed development:

- (i) preserves to the greatest extent practicable the significant trees and vegetation on the site; and
 - (ii) provides maximum erosion control and overland flow benefits from the vegetation.
- (b) include one of the following:
 - (i) a tree survey of all trees with a diameter of at least eight inches measured four and one-half feet above natural grade level; or
 - (ii) on approval of the Watershed Protection Department, aerial imagery that was photographed between the months of April and November; and
 - (iii) include a vegetation survey that shows the approximate locations and types of all significant vegetation.
- (3) Wastewater Report
 - (a) provide environmental justification for a sewer line location in a critical water quality zone;
 - (b) address construction techniques and standards for wastewater lines;
 - (c) include calculations of drainfield or wastewater irrigation areas;
 - (d) describe alternative wastewater disposal systems used over the Edwards Aquifer recharge zone; and
 - (e) address on-site collection and treatment systems, their treatment levels, and effects on receiving watercourses or the Edwards Aquifer.
- (D) The Watershed Protection Department may permit an applicant to exclude from an environmental resource inventory information required by this Section after determining that the information is unnecessary because of the scope and nature of the proposed development.

23-3D-5020 Pollutant Attenuation Plan

An applicant proposing an industrial use that is not completely enclosed in a building shall provide a pollutant attenuation plan in compliance with the Environmental Criteria Manual.

23-3D-5030 Critical Environmental Features

- (A) Drainage patterns for proposed development must be designed to protect critical environmental features from the effects of runoff from developed areas, and to maintain the catchment areas of recharge features in a natural state. Special controls must be used where necessary to avoid the effects of erosion, sedimentation, or high rates of flow.
- (B) A residential lot may not include a critical environmental feature or be located within 50 feet of a critical environmental feature.
- (C) This Subsection prescribes the standards for critical environmental feature buffer zones.

- (1) A buffer zone is established around each critical environmental feature described in this Article.
 - (a) Except as provided in Subsection (C)(1)(b), the width of the buffer zone is 150 feet from the edge of the critical environmental feature.
 - (b) For a point recharge feature, the buffer zone coincides with the topographically defined catchment basin, except that the width of the buffer zone from the edge of the critical environmental feature is:
 - (i) not less than 150 feet;
 - (ii) not more than 300 feet; and
 - (iii) calculated in compliance with the Environmental Criteria Manual.
 - (2) Within a buffer zone described in this Subsection:
 - (a) the natural vegetative cover must be retained to the maximum extent practicable;
 - (b) construction is prohibited; and
 - (c) wastewater disposal or irrigation is prohibited.
 - (3) If located at least 50 feet from the edge of the critical environmental feature, the prohibition of Subsection (C)(2)(b) does not apply to:
 - (a) a yard or hiking trail;
 - (b) a recharge basin approved in compliance with Section 23-3D-6030 (Water Quality Control and Beneficial Use Standards) that discharges to a point recharge feature; or
 - (c) an innovative runoff management practice approved in compliance with Section 23-3D-6110 (Innovative Management Practices).
 - (4) Perimeter fencing with not less than one access gate must be installed at the outer edge of the buffer zone for all point recharge features. The fencing must comply with the Standard Specifications Manual.
 - (5) The owner shall maintain the buffer zone in compliance with standards in the Environmental Criteria Manual to preserve the water quality function of the buffer.
 - (6) All critical environmental feature locations and required setbacks must be shown on preliminary subdivision plans, site plans, or other permits as determined by the director.
 - (7) All critical environmental feature locations must be shown on final plats.
- (D) When voids in the rock substrate are uncovered during development, the following protocol must be followed:
- (1) Construction in the area of the void must cease while the applicant conducts a preliminary investigation of the void as prescribed in the Environmental Criteria Manual.
 - (2) The applicant shall contact a City Environmental Inspector to schedule further investigation by the City of the void as prescribed in the Environmental Criteria Manual if the preliminary investigation indicates that the void:
 - (a) is at least one square foot in total area;
 - (b) blows air from within the substrate;

- (c) consistently receives water during any rain event; or
 - (d) potentially transmits groundwater.
- (3) Construction may only proceed after mitigation measures are reviewed and approved by the Watershed Protection Department.

23-3D-5040 Wetland Protection

- (A) Wetlands must be protected in all watersheds except in the area bounded by Interstate Highway 35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.
- (B) Protection methods for wetlands include:
 - (1) appropriate setbacks that preserve the wetlands or wetland functions;
 - (2) wetland mitigation, including wetland replacement;
 - (3) wetland restoration or enhancement; or
 - (4) use of wetlands for water quality controls.
- (C) The Watershed Protection Department may approve:
 - (1) the removal and replacement of a wetland; or
 - (2) the elimination of setbacks from a wetland that is proposed to be used as a water quality control.

Division 23-3D-6: Water Quality Controls

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23-3D-6010 **Applicability Of Water Quality Control Standards**

- (A) In the Barton Springs Zone, water quality controls are required for all development.
- (B) In a watershed other than a Barton Springs Zone watershed, water quality controls are required for development:
 - (1) located in the water quality transition zone;
 - (2) of a golf course, play field, or similar recreational use, if fertilizer, herbicide, or pesticide is applied; or
 - (3) if the total of new and redeveloped impervious cover exceeds 8,000 square feet.
- (C) All new development must provide for removal of floating debris from stormwater runoff.
- (D) The water quality control standards in this Division do not require water quality controls on a single-family or duplex lot but apply to the residential subdivision as a whole.
- (E) The water quality control standards in this Division do not require water quality controls for a roadway project with less than 8,000 square feet of new impervious cover. For the purposes of this Section, roadway improvements are limited to intersection upgrades, low-water crossing upgrades, additions for bicycle lanes, and additions for mass transit stops.

23-3D-6020 **Previous Waivers And Special Exceptions**

Water quality controls in compliance with Section 23-3D-6030 (Water Quality Control and Beneficial Use Standards) are required for a commercial, civic, industrial, or multi-family development with more than 20 percent impervious cover that has been granted a waiver of previous water quality standards or a special exception in compliance with this Article.

23-3D-6030 Water Quality Control And Beneficial Use Standards

- (A) A water quality control must be designed in compliance with the Environmental Criteria Manual.
 - (1) The control must provide at least the treatment level of a sedimentation/filtration system in compliance with the Environmental Criteria Manual.
 - (2) An impervious liner is required in an area where there is surface runoff to groundwater conductivity. If a liner is required and controls are located in series, liners are not required for the second or later in the series following sedimentation, extended detention, or sedimentation/filtration.
 - (3) The control must be accessible for maintenance and inspection as prescribed in the Environmental Criteria Manual.
- (B) A water quality control must capture and treat the water draining to the control from the contributing area. The required capture volume is:
 - (1) the first one-half inch of runoff; and
 - (2) for each 10 percent increase in impervious cover over 20 percent of gross site area, an additional one-tenth of an inch of runoff.
- (C) A portion of the required capture volume for water quality must be retained and beneficially used on-site through practices that infiltrate, evapotranspire, or harvest and use rainwater.
 - (1) The amount of rainfall that must be retained is based on the impervious cover and associated runoff coefficient for the 95th percentile rainfall event, as prescribed in the Environmental Criteria Manual.
 - (2) Residential subdivisions must demonstrate compliance through practices located on common lots or in right-of-way or other methods as approved by the Watershed Protection Department.
- (D) The location of a water quality control:
 - (1) must avoid recharge features to the greatest extent possible;
 - (2) must be shown on the slope map, preliminary plan, site plan, or subdivision construction plan, as applicable; and
 - (3) in a water supply rural watershed, may not be in the 40 percent buffer zone, unless the control disturbs less than 50 percent of the buffer, and is located to maximize overland flow and recharge in the undisturbed remainder of the 40 percent buffer zone.
- (E) This Subsection provides additional standards for the Barton Springs Zone.
 - (1) Approval by the Watershed Protection Department is required for a proposed water quality control that is not described in the Environmental Criteria Manual. The applicant shall substantiate the pollutant removal efficiency of the proposed control with published literature or a verifiable engineering study.
 - (2) Water quality controls must be placed in sequence if necessary to remove the required amount of pollutant. The sequence of controls must be:
 - (a) based on the Environmental Criteria Manual or generally accepted engineering principles; and

- (b) designed to minimize maintenance requirements.

23-3D-6040 Optional Payment Instead Of Structural Controls In Urban Watersheds

- (A) The Watershed Protection Department shall identify and prioritize water quality control facilities for the urban watersheds in an Urban Watersheds Structural Control Plan.
- (B) An Urban Watersheds Structural Control Fund is established for use in the design and construction of water quality control facilities in the urban watersheds.
- (C) Instead of providing the water quality controls required by Section 23-3D-6010 (Applicability of Water Quality Control Standards), in an urban watershed an applicant may request approval to deposit with the City a nonrefundable cash payment. The director shall review the request and approve or disapprove the request based on the standards in the Environmental Criteria Manual.
- (D) In an urban watershed, an applicant may also request approval to pay into the Urban Watersheds Structural Control Fund to reduce the amount of stormwater required to be retained and beneficially used on-site in compliance with Section 23-3D-6030 (Water Quality Control and Beneficial Use Standards). The director shall review the request and approve or disapprove the request based on the standards in the Environmental Criteria Manual.
- (E) If a site qualifies for payment-in-lieu under both Subsections (C) and (D), the payment for water quality required by Subsection (C) satisfies both requirements.
- (F) The director shall deposit a payment made in compliance with this Section in the Urban Watersheds Structural Control Fund.

23-3D-6050 Optional Payment Instead Of Structural Controls In Suburban Watersheds

- (A) A Suburban Watersheds Structural Control Fund is established for use in the design and construction of water quality control facilities in the suburban watersheds.
- (B) Instead of providing the water quality controls required by Section 23-3D-6010 (Applicability of Water Quality Control Standards), in a suburban watershed an applicant may request approval to deposit with the City a nonrefundable cash payment. The director shall review the request and approve or disapprove the request based on the standards in the Environmental Criteria Manual. To be eligible to request the optional payment, the development must:
 - (1) be located within the zoning jurisdiction;
 - (2) be a residential subdivision less than two acres in size; and
 - (3) demonstrate exemption from the preliminary plan standard as determined by Section 23-4B-2010 (Preliminary Plan Requirement).
- (C) If eligible for the optional payment, the applicant may demonstrate alternative compliance with the beneficial use standards of Section 23-3D-6030 (Water Quality Control and Beneficial Use Standards) in compliance with the Environmental Criteria Manual.

- (D) The director shall deposit a payment made in compliance with this Section in the Suburban Watersheds Structural Control Fund.

23-3D-6060 Cost Recovery Program

- (A) An applicant who redevelops property in an urban watershed and is required to construct a water quality control may qualify for cost participation by the City for:
- (1) construction of the water quality control; or
 - (2) optional payment instead of construction of the water quality control in compliance with Section 23-3D-6040 (Optional Payment Instead of Structural Controls In Urban Watersheds).

23-3D-6070 Water Quality Control Maintenance And Inspection

- (A) For a commercial, civic, industrial, or multi-family development:
- (1) The record owner of the development shall maintain the water quality control serving the development in compliance with the Environmental Criteria Manual, whether or not the control 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 control if it is not located on the same property as the development.
 - (2) If more than one development is served by a single water quality control, the record owners of the control and all developments served by the control shall be jointly and severally responsible for maintenance of the control in compliance with the Environmental Criteria Manual.
 - (3) The City shall inspect each water quality control that is not a subsurface control at least once every three years to ensure that the control is being maintained in compliance with the Environmental Criteria Manual. If the control fails inspection requiring an additional inspection, the director may charge a re-inspection fee.
 - (4) The record owner of a subsurface water quality control shall provide the Watershed Protection Department with a maintenance plan and an annual report from an engineer verifying that the control is in proper operating condition.
- (B) For a duplex or single-family development:
- (1) The City shall be responsible for maintenance of a water quality control only after the control has been accepted for maintenance by the City.
 - (2) The City will accept a water quality control for maintenance upon determining that it meets all standards of the Environmental Criteria Manual and, if applicable, Section 23-3D-6100 (Fiscal Security In The Barton Springs Zone).
 - (3) Until the City accepts a water quality control for maintenance, the record owner(s) of the control and the development served shall maintain the control in compliance with the Environmental Criteria Manual.
- (C) The Watershed Protection Department may authorize an alternative arrangement for maintenance of a water quality control in compliance with the Environmental 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.

23-3D-6080 Dedicated Fund

- (A) The Finance Department shall establish a dedicated fund to:
 - (1) monitor water quality controls; and
 - (2) maintain water quality controls for single-family and duplex residential development.
- (B) An applicant shall pay the required fee into the fund:
 - (1) for development that does not require a site plan, when the applicant posts fiscal security for the subdivision or requests that the director record the subdivision plat, whichever occurs first; or
 - (2) for development that requires a site plan, when the site plan is approved.
- (C) The Watershed Protection Department shall administer the fund, allocate the fund for appropriate projects, and report annually to the Council regarding the status of the fund and the monitoring and maintenance program described in this Section.

23-3D-6090 Barton Springs Zone Operating Permit

- (A) In the Barton Springs Zone, the owner or operator of a commercial, civic, industrial, or multi-family development is required to obtain an annual operating permit for the required water quality controls.
- (B) To obtain an annual operating permit, an applicant shall:
 - (1) provide the Development Services Department with:
 - (a) a maintenance plan; and
 - (b) the information necessary to verify that the water quality controls are in proper operating condition; and
 - (2) pay the required, nonrefundable fee.
- (C) The Development Services Department may verify that a water quality control is in proper operating condition by either inspecting the water quality control or accepting a report from an engineer.
- (D) The Development Services Department shall issue an operating permit after determining that:
 - (1) the applicant has complied with the standards of Subsection (B); and
 - (2) the water quality controls are in proper operating condition.
- (E) The Development Services Department shall transfer an operating permit to a new owner or operator if, not later than 30 days after a change in ownership or operation, the new owner or operator:
 - (1) signs the operating permit;
 - (2) accepts responsibility for the water quality controls; and

- (3) documents the transfer on a form provided by the Development Services Department.

23-3D-6100 Fiscal Security In The Barton Springs Zone

- (A) For development in the Barton Springs Zone, an applicant shall provide the City with fiscal security to ensure that water quality controls are maintained properly. The director shall calculate the amount of fiscal security in compliance with the formula in the Environmental Criteria Manual.
- (B) The director may not return the fiscal security to the applicant until:
 - (1) the expiration of one year after the completion of the development; and
 - (2) the director receives verification that the controls are constructed in compliance with the approved design by:
 - (a) the applicant's delivery of a certified engineering concurrence letter; and
 - (b) a report from a City inspector.

23-3D-6110 Innovative Management Practices

- (A) An innovative water quality control is a practice that is not specifically prescribed in the Environmental Criteria Manual, but is designed to address the standards of this Division.
- (B) An innovative runoff management practice is a practice that is designed to address the standards of Section 23-3D-5030 (Critical Environmental Features), enhance the recharge of groundwater and the discharge of springs, and maintain the function of critical environmental features.
- (C) A proposal for an innovative water quality control or runoff management practice proposal must be reviewed and approved by the Watershed Protection Department. Review and approval is based on:
 - (1) technical merit;
 - (2) compliance with the standards of this Title for water quality protection and improvement;
 - (3) resource protection and improvement;
 - (4) advantages over standard practices; and
 - (5) anticipated maintenance requirements.

Division 23-3D-7: Erosion and Sedimentation Control

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23-3D-7010 Erosion And Sedimentation Control

- (A) Temporary erosion and sedimentation controls:
 - (1) are required for all development until permanent revegetation has been established; and
 - (2) must be removed after permanent revegetation has been established.

23-3D-7020 Development Completion

- (A) Development is not completed until:
 - (1) permanent revegetation is established; and
 - (2) the Development Services Department:
 - (a) receives the engineer’s concurrence letter; and
 - (b) certifies installation of the vegetation for acceptance.
- (B) Development must be completed in compliance with Subsection (A) before the City may accept maintenance responsibility for streets, drainage facilities, or utilities, or issue a certificate of occupancy or compliance, unless the City and the applicant enter into an agreement to ensure completion of the revegetation within a named period.

23-3D-7030 Modification Of Erosion Control And Construction Sequencing Plans

- (A) A City inspector may modify an erosion control plan or construction sequencing plan in the field:
 - (1) without notice to the permit holder, if the modification is a minor change to upgrade erosion controls or reflect construction progress; and
 - (2) after two days written notice to the permit holder, if:
 - (a) the inspector determines that an erosion control or the construction sequencing is inappropriate or inadequate; and

- (b) the director has confirmed in writing the inspector's determination.

23-3D-7040 Additional Erosion And Sedimentation Control Standards In The Barton Springs Zone

- (A) This Section provides additional erosion and sedimentation control standards for development in the Barton Springs Zone.
- (B) A temporary erosion and sedimentation control plan and a water quality plan certified by an engineer and approved by the Development Services Department is required.
 - (1) The plans must describe the temporary structural controls, site management practices, or other approved methods that will be used to control off-site sedimentation until permanent revegetation is certified as completed in compliance with Section 23-3D-7020 (Development Completion).
 - (2) The temporary erosion control plan must be phased to be effective at all stages of construction. Each temporary erosion control method must be adjusted, maintained, and repaired as necessary.
- (C) The Development Services Department may require a modification of the temporary erosion control plan after determining that the plan does not adequately control off-site sedimentation from the development. Approval by the Development Services Department and the engineer who certified the plan is required for a major modification of the plan.
- (D) The applicant shall designate a project manager who is responsible for compliance with the erosion and sedimentation control and water quality plan standards during development.
- (E) The length of time between clearing and final revegetation of development may not exceed 18 months, unless extended by the director.
- (F) If an applicant does not comply with the deadline in Subsection (E), or does not adequately maintain the temporary erosion and sedimentation controls, the director shall notify the applicant in writing that the City will repair the controls or revegetate the disturbed area at the applicant's expense unless the work is completed or revegetation is begun not later than the 15th day after the date of the notice.
- (G) A person commits an offense if the person allows sediment from a construction site to enter a waterway by failing to maintain erosion controls or failing to follow the approved sequence of construction.

23-3D-7050 Temporary Storage Areas; Topsoil Protection

- (A) The site plan or subdivision construction plan must designate the areas to be cleared for temporary storage of spoils or construction equipment. Areas cleared for temporary storage must be located and restored in compliance with the Environmental Criteria Manual.
- (B) During and after site grading and construction operations, the topsoil must be protected and vegetation left in place to the maximum extent practicable in compliance with the Environmental Criteria Manual.

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

23-3D-7060 Fiscal Security

- (A) A site plan may be approved only if the applicant provides fiscal security for:
 - (1) installing and maintaining erosion and sedimentation controls throughout construction on the site;
 - (2) revegetating the site; and
 - (3) performing on-site and off-site cleanup.

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23-3D-8010 Overland Flow

- (A) Drainage patterns must be designed as prescribed in the Environmental Criteria Manual to:
 - (1) prevent erosion;
 - (2) maintain and restore infiltration and recharge of local seeps and springs;
 - (3) attenuate the harm of contaminants collected and transported by stormwater; and
 - (4) where possible, disconnect impervious cover, maintain and restore overland sheet flow, maintain natural drainage features and patterns, and disperse runoff back to sheet flow.
- (B) Where applicable, the applicant shall design an enclosed storm drain to mitigate potential adverse impacts on water quality by using methods to prevent erosion and dissipate discharges from outlets. Applicant shall locate discharges to maximize overland flow through buffer zones or grass-lined swales wherever practicable.

23-3D-8020 Interbasin Diversion

- (A) Development may not divert stormwater from one watershed to another, except as authorized by this Section.
- (B) A proposed diversion of less than 20 percent of the site based on gross site area or less than one acre, whichever is smaller, may be allowed if the applicant demonstrates that:

- (1) existing drainage patterns are maintained to the extent feasible; and
- (2) there are no adverse environmental or drainage impacts.

23-3D-8030 Construction On Slopes

- (A) The standards of this Section do not apply in an urban watershed.
- (B) Construction of a Roadway or Driveway
 - (1) An applicant may not construct a roadway or driveway on a slope with a gradient of more than 15 percent unless the construction is necessary to provide primary access to:
 - (a) at least two contiguous acres with a gradient of 15 percent or less; or
 - (b) building sites for at least five residential units.
 - (2) For construction described in this Subsection, a cut or fill must be revegetated, or if a cut or fill has a finished gradient of more than 33 percent, stabilized with a permanent structure. This does not apply to a stable cut.
- (C) Construction of a Building or Parking Area
 - (1) An applicant may not construct:
 - (a) a building or parking structure on a slope with a gradient of more than 25 percent; or
 - (b) except for a parking structure, a parking area on a slope with a gradient of more than 15 percent.
 - (2) An applicant may construct a building or parking structure on a slope with a gradient of more than 15 percent and not more than 25 percent if the standards of this Subsection are met.
 - (a) Impervious cover on slopes with a gradient of more than 15 percent may not exceed 10 percent of the total area of the slopes.
 - (b) The terracing techniques in the Environmental Criteria Manual are required for construction that is uphill or downhill of a slope with a gradient of more than 15 percent.
 - (c) Hillside vegetation may not be disturbed except as necessary for construction, and disturbed areas must be restored with native and adapted vegetation as prescribed in the Environmental Criteria Manual.
 - (d) For construction described in this Subsection, a cut or fill must be revegetated, or if a cut or fill has a finished gradient of more than 33 percent, stabilized with a permanent structure. This does not apply to a stable cut.
- (D) Subdivision Notes
 - (1) A preliminary subdivision plan that proposes a single family residential lot on a slope with a gradient of more than 15 percent must include a plan note identifying the lot and describing the standards of Subsection (D)(2).
 - (2) A final plat that proposes a single family residential lot on a slope with a gradient of more than 15 percent must include a plat note:

- (a) identifying the lot; and
- (b) stating the impervious cover and construction standards for the lot.

23-3D-8040 Clearing Of Vegetation

- (A) Clearing of vegetation is prohibited unless the director determines that the clearing:
 - (1) is in compliance with a released site plan or subdivision construction plan;
 - (2) is allowed in compliance with this Section or Section 23-3D-8050 (Clearing for a Roadway); or
 - (3) is not development, as that term is defined in Chapter 23-X-XXX (Definitions).
- (B) Clearing of vegetation on land used for agricultural purposes is prohibited if an application to develop for a non-agricultural use has been granted or is pending. The director may waive this prohibition after determining that the clearing has a bonafide agricultural purpose and is unrelated to the proposed development or sale of the land for non-agricultural uses.
- (C) An applicant may clear an area up to 15 feet wide or remove a tree with a diameter of not more than eight inches to perform surveying or geologic testing in preparation for site plan or final plat approval.

23-3D-8050 Clearing For A Roadway

- (A) An applicant may clear an area for road construction after site plan or final plat approval in compliance with this Section.
- (B) Roadway clearing width may not exceed:
 - (1) twice the roadway surface width, or the width of the dedicated right-of-way, whichever is less; or
 - (2) for road construction problem areas of less than 300 feet in length, two and one-half times the roadway width.
- (C) The director may grant an administrative variance to Subsection (B) if required by unusual topographic conditions.
- (D) If clearing on slopes could result in materials sliding onto areas beyond the clearing widths described in Subsection (B), retaining walls or other preventative methods are required.
- (E) The length of time between rough cutting and final surfacing of roadways may not exceed 18 months.
- (F) If the applicant does not meet the deadline described in Subsection (E), the City shall notify the applicant in writing that the City will finish the roadways or revegetate the disturbed area at the applicant's expense unless the work is completed not later than the 60th day after the date of the notice.

23-3D-8060 Cut Standards

- (A) Cuts on a tract of land may not exceed four feet of depth, except:
 - (1) in an urban watershed;
 - (2) in a roadway right-of-way;
 - (3) for construction of a building foundation;
 - (4) for utility construction or a wastewater drain field, if the area is restored to natural grade; or
 - (5) in a state-permitted sanitary landfill or a sand or gravel excavation located in the extraterritorial jurisdiction, if:
 - (a) the cut is not in a critical water quality zone;
 - (b) the cut does not alter a 100-year floodplain;
 - (c) the landfill or excavation has an erosion and restoration plan approved by the City; and
 - (d) all other applicable City Code provisions are met.
- (B) A cut must be restored and stabilized.
- (C) A roadway cut must be contained within the roadway clearing width described in Section 23-3D-8050 (Clearing for a Roadway).

23-3D-8070 Fill Standards

- (A) Fill on a tract of land may not exceed four feet of depth, except:
 - (1) in an urban watershed;
 - (2) in a roadway right-of-way;
 - (3) under a foundation with sides perpendicular to the ground, or with pier and beam construction;
 - (4) for utility construction or a wastewater drain field; or
 - (5) in a state-permitted sanitary landfill located in the extraterritorial jurisdiction, if:
 - (a) the fill is derived from the landfill operation;
 - (b) the fill is not placed in a critical water quality zone or a 100-year floodplain;
 - (c) the landfill operation has an erosion and restoration plan approved by the City; and
 - (d) all other applicable City Code provisions are met.
- (B) A fill area must be restored and stabilized.
- (C) Fill for a roadway must be contained within the roadway clearing width described in Section 23-3D-8050 (Clearing for a Roadway).

23-3D-8080 Spoil Disposal

- (A) A spoil disposal site may not be located in a 100-year floodplain or on a slope with a gradient of more than 15 percent.
- (B) The location of a spoil disposal site must be reasonably accessible. An access route:
 - (1) must use existing and approved roadways, if possible; and
 - (2) may not be located in a waterway, unless:
 - (a) a reasonable alternative is not available; or
 - (b) the access route is for the construction of a water quality control.
- (C) A spoil disposal site and an access route must be restored and revegetated in compliance with the Environmental Criteria Manual.

23-3D-8090 Blasting Prohibited

- (A) Blasting on property located in the Edwards Aquifer recharge zone is prohibited in a critical water quality zone or a water quality transition zone, unless the applicant demonstrates that a feasible alternative does not exist.
- (B) Blasting is prohibited within 300 feet of a critical environmental feature, unless the applicant demonstrates that a feasible alternative does not exist.

23-3D-8100 Wastewater Restrictions

- (A) A lot in the Edwards Aquifer recharge zone with private on-site sewage facilities must demonstrate compliance with City Code Chapter 15-5 (Private Sewage Facilities).
- (B) Wastewater treatment by land application is prohibited:
 - (1) on a slope with a gradient of more than 15 percent;
 - (2) in a critical water quality zone;
 - (3) in a 100-year floodplain;
 - (4) on the trunk of surveyed trees;
 - (5) in the buffer zone established around a critical environmental feature in compliance with Section 23-3D-5030 (Critical Environmental Features); or
 - (6) during wet weather conditions.

23-3D-8110 Storm Sewer Discharge

A certificate of occupancy may not be issued for development subject to this Article unless the development is in compliance with Chapter 6-5, Article 5 (Discharges Into Storm Sewers Or Watercourses).

23-3D-8120 Restrictions On Development Impacting Lake Austin, Lady Bird Lake, And Lake Walter E. Long

- (A) The standards of this Section apply to development on or adjacent to Lake Austin, Lady Bird Lake, or Lake Walter E. Long.
- (B) Except as otherwise provided by this Section, placing fill or dredging in a lake is prohibited.
- (C) A retaining wall, bulkhead, or other erosion protection device may not capture or recapture land from a lake unless doing so is required to restore the shoreline to whichever of the following boundaries would encroach the least into the lake:
 - (1) the shoreline as it existed 10 years prior to the date of application, with documentation as prescribed in the Environmental Criteria Manual; or
 - (2) the lakeside boundary of the subdivided lot line.
- (D) A bulkhead may be replaced in front of an existing bulkhead once, if:
 - (1) the existing bulkhead was legally constructed;
 - (2) construction of the replacement bulkhead does not change the location of the shoreline by more than six inches; and
 - (3) the Watershed Protection Department determines that there is no reasonable alternative to replacement of the bulkhead in the location of the existing bulkhead.
- (E) The director may approve up to 25 cubic yards of dredging in a lake if the dredging is necessary for navigation safety.

23-3D-8130 Endangered Species Notification

- (A) Applicability
 - (1) This Section applies in areas of the planning jurisdiction that may contain habitat for federally listed endangered or threatened species, as defined below:
 - (a) For bird or plant species, the area west of a line bounded by U. S. 183 North at the City's extraterritorial boundary limit, then southeast to Loop 1, then south along Loop 1 to U.S. 290 West, then west on U. S. 290 to R.M. 1826, and then south to the City's extraterritorial boundary limit.
 - (b) For cave species, the Edwards Aquifer recharge zone as defined by Section 23-3D-1030 (Description of Regulated Areas).
 - (c) For salamander species, the areas included in the salamander habitat map maintained by the Watershed Protection Department.
- (B) On receipt of an application for a subdivision or site plan in an area described in Subsection (A)(1), the director shall give notice of the application to the:
 - (1) United States Fish and Wildlife Service;
 - (2) Texas Parks and Wildlife Department; and
 - (3) Balcones Canyonlands Conservation Plan Coordinating Committee Secretary.
- (C) The notice must include a statement that the development could cause the loss of threatened or endangered species habitat.

Division 23-3D-9: Save Our Springs Initiative

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23-3D-9010 Title And Purpose

- (A) This division, to be known as the Save Our Springs Initiative, (SOS hereafter) sets out special requirements for development of land in watersheds within the City's planning jurisdiction which contribute to Barton Springs.
- (B) This division codifies the Save Our Springs Initiative Petition Ordinance as adopted by popular vote on August 8, 1992 and amended by the council.

23-3D-9020 Amendment

This division may be repealed or amended only by an affirmative vote of a three-quarters majority of the city council.

23-3D-9030 Declaration Of Intent

The people of the City declare their intent to preserve a clean and safe drinking water supply, to prevent further degradation of the water quality in Barton Creek, Barton Springs, and the Barton Springs Edwards Aquifer, to provide for fair, consistent, and cost effective administration of the City's watershed protection ordinances, and to promote the public health, safety, and welfare. The City recognizes that the Barton Springs Edwards Aquifer is more vulnerable to pollution from urban development than any other major

groundwater supply in Texas, and that the measures set out in this division are necessary to protect this irreplaceable natural resource.

23-3D-9040 Pollution Prevention Required

- (A) In the watersheds contributing to Barton Springs, no development nor any revision, extension, or amendment thereof, may be approved unless it is designed, carried out, and maintained on a site-by-site basis to meet the pollution prevention requirements set forth below for the life of the project. In order to prevent pollution, impervious cover for all such development must be limited to a maximum of 15 percent in the entire recharge zone, 20 percent of the contributing zone within the Barton Creek watershed, and 25 percent in the remainder of the contributing zone. The impervious cover limits shall be calculated on a net site area basis. In addition, runoff from such development shall be managed through water quality controls and onsite pollution prevention and assimilation techniques so that no increases occur in the respective average annual loadings of total suspended solids, total phosphorus, total nitrogen, chemical oxygen demand, total lead, cadmium, E. coli, volatile organic compounds, total organic carbon, pesticides, and herbicides from the site. For a given project, impervious cover shall be reduced if needed to assure compliance with these pollutant load restrictions.
- (B) Within the watersheds contributing to Barton Springs, Section 23-3D-4020 (Critical Water Quality Zones Established) of the Land Development Code is amended so that in no event shall the boundary of the critical water quality zone be less than 200 feet from the centerline of a major waterway or be less than 400 feet from the centerline of the main channel of Barton Creek. No pollution control structure, or residential or commercial building, may be constructed in the critical water quality zone in these watersheds.

23-3D-9050 No Exemptions, Special Exceptions, Waivers Or Variances

The requirements of this division are not subject to the exemptions, special exceptions, waivers, or variances allowed by Division 23-3D-2 (Exceptions and Variances). Adjustments to the application of this division to a specific project may be granted only as set out in Section 23-3D-9080 (Limited Adjustment To Resolve Possible Conflicts With Other Laws) below.

23-3D-9060 Application To Existing Tracts, Platted Lots, And Public Schools

- (A) This division does not apply to development on a single platted lot or a single tract of land that is not required to be platted before development if the lot or tract existed on November 1, 1991 and the development is either:
 - (1) construction, renovation, additions to, repair, or development of a single-family, single-family attached, or a duplex structure used exclusively for residential purposes, and construction of improvements incidental to that residential use; or
 - (2) development of a maximum of 8,000 square feet of impervious cover, including impervious cover existing before and after the development.

- (B) This division does not apply to development of public primary or secondary educational facilities if the City and the school district enter into a development agreement approved by a three-quarters vote of the city council protecting water quality pursuant to Section 13-2-502(n)(7) of the Land Development Code.
- (C) This division does not apply to the replacement of development which is removed as a result of right-of-way condemnation.
- (D) This division does not apply to a roadway project with less than 8,000 square feet of new impervious cover. For the purposes of this Section, roadway improvements are limited to intersection upgrades, low-water crossing upgrades, additions for bicycle lanes, and additions for mass transit stops.

23-3D-9070 Expiration Of Prior Approvals

- (A) Within the watersheds contributing to Barton Springs, the following provisions shall govern the expiration of certain prior approvals:
 - (1) Previously Approved Preliminary Subdivision Plan:
 - (a) Unless it has or will have expired sooner, a preliminary subdivision plan initially approved before the effective date of this division expires one year after the effective date of this division, or two years after its initial approval whichever date is later, unless an application for final plat approval is filed before this expiration date and a final plat is approved no later than 180 days after filing.
 - (b) No approved preliminary plan, and no portion of an approved preliminary plan, shall be valid or effective after the expiration date established by this part, or shall be extended, revised, or renewed to remain effective after the expiration date, except according to Subsection (3) of this section.
 - (2) Previously Approved Site Plan:
 - (a) Unless it has or will have expired sooner, a site plan or phase or portion thereof initially approved before the effective date of this division shall expire one year after the effective date of this division, or three years after its initial approval, whichever date is later, unless:
 - (i) An application is filed before this expiration date for building permits for all structures shown on the site plan or phase or portion thereof and designed for human occupancy, and the building permits are approved and remain valid and certificates of occupancy are issued no later than two years after this expiration date; or
 - (ii) If no building permits are required to construct the structures shown on a site plan described in Subsection (2)(a) of this section, construction begins on all buildings shown on the site plan or portion or phase thereof before this expiration date, and the buildings are diligently constructed and completed, and certificates of compliance or certificates of occupancy are issued no later than two years after this expiration date.
 - (b) No approved site plan, and no separate phase or portion of an approved site plan, shall be valid or effective after the expiration date established by this part, or shall be extended, revised, or renewed to remain effective after the expiration date, except according to Subsection (3) of this section.

- (3) Approved Plans Which Comply: An approved preliminary subdivision plan, portion of a preliminary plan, approved site plan, or separate phase or portion of an approved site plan that complies with this division or that is revised to comply with this division does not expire under Subsection (1) or (2) of this section and remains valid for the period otherwise established by law.

23-3D-9080 Limited Adjustment To Resolve Possible Conflicts With Other Laws

- (A) This division is not intended to conflict with the United States Constitution or the Texas Constitution or to be inconsistent with federal or state statutes that may preempt a municipal ordinance or the Austin City Charter.
- (B) The terms of this division shall be applied consistently and uniformly. If a three-quarters majority of the city council concludes, or a court of competent jurisdiction renders a final judgment concluding that this division, as applied to a specific development project or proposal violates a law described in Subsection (A) of this section, the city council may, after a public hearing, adjust the application of this division to that project to the minimum extent required to comply with the conflicting law. Any adjustment shall be structured to provide the maximum protection of water quality.

23-3D-9090 Construction Of Ordinance

This division is intended to be cumulative of other City ordinances. In case of irreconcilable conflict in the application to a specific development proposal between a provision of this division and any other ordinance, the provision which provides stronger water quality controls on development shall govern. If a word or term used in this division is defined in the Austin City Code of 1981, as that code was in effect on November 1, 1991, that word or term shall have the meaning established by the Austin City Code of 1981 in effect on that date, unless modified in this division.

23-3D-9100 Reduce Risk Of Accidental Contamination

Within one year of the effective date of this division the City of Austin Environmental and Conservation Services Department shall complete a study, with citizen input, assessing the risk of accidental contamination by toxic or hazardous materials of the Barton Springs Edwards Aquifer and other streams within the City and its extraterritorial jurisdiction. The assessment shall inventory the current and possible future use and transportation of toxic and hazardous materials in and through the City, and shall make recommendations for City actions to reduce the risk of accidental contamination of the Barton Springs Edwards Aquifer and of other water bodies. Within 60 days of completion of the study, and following a public hearing, the city council shall take such actions deemed necessary to minimize risk of accidental contamination of city waters by hazardous or toxic materials.

23-3D-9110 Efficient And Cost-Effective Water Quality Protection Measures

In carrying out City efforts to reduce or remedy runoff pollution from currently developed areas or to prevent runoff pollution from currently developed or developing areas, the city council shall assure that funds for remedial, retrofit or runoff pollution prevention measures shall be spent so as to achieve the maximum water quality benefit, and shall assure that the need for future retrofit is avoided whenever feasible.

23-3D-9120 Severability

If any provision, section, subsection, sentence, clause, or phrase of this division, or the application of the same to any person, property, or set of circumstances is for any reason held to be unconstitutional, void, or otherwise invalid, the validity of the remaining portions of this division shall not be affected by that invalidity; and all provisions of this division are severable for that purpose.

23-3D-9130 Adoption Of Water Quality Measures

The adoption of this division is not intended to preclude the adoption, at any time, by a majority vote of the city council of stricter water quality requirements upon development in the watersheds contributing to Barton Springs or of further measures to restore and protect water quality.

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ARTICLE 23-3E: Affordable Housing Incentive Program

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Article 23-3E: Affordable Housing Incentive Program

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Division 23-3E-1: Affordable Housing Incentive Program

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23-3E-1010 Purpose

This section will discuss the purpose of the Affordable Housing Incentive Program, which is to achieve City housing goals and encourage the production of affordable housing.

23-3E-1020 Applicability

This section will describe the conditions under which the Affordable Housing Incentive Program will be applied. If the incentives and requirements differ by area of the City or by Zone, the area(s) and/or Zone(s) will be identified here.

23-3E-1030 Review Authority

This section will identify the Housing Director as the administrator of the Affordable Housing Incentive Program, and describe the roles and responsibilities of the Director in processing applications, creating rules, and developing program guidelines. Actions that require City Council approval (e.g. in-lieu fees) will also be identified in this section.

23-3E-1040 General Provisions for the Affordable Housing Incentive Program

This section will establish the general provisions of the Affordable Housing Incentive Program, such as Median Family Income (MFI) thresholds (i.e. income targets for eligible households), HUD household affordability limits (i.e. 30%), timing for meeting requirements (e.g. affordable units must be constructed concurrently with market rate units), accepting housing choice vouchers, and other gatekeeper requirements (i.e. minimum requirements that must be met) to ensure the long-term provision of affordable housing.

23-3E-1050 Calculation of Density Bonuses

This section will establish the percentage of affordable units (or square feet) required by income category and the corresponding density bonus. If the requirements and incentives differ by area of the City or by Zone, the density bonus calculation by area(s) and/or Zone(s) will be identified here. This section will also describe and illustrate the formula(s) for calculating the density bonus.

It is anticipated that the existing Downtown Density Program will be updated and carried forward, and if so, it will be included in this section.

23-3E-1060 Additional Developer Incentives

This section will describe potential development incentives, such as waivers from development standards, expedited application processing, and financial incentives, that an applicant may request in addition to a density bonus to improve project feasibility or to provide greater community benefit.

23-3E-1070 Alternatives to On-site Production of Density Bonus Units

This section will describe potential alternatives to on-site production of affordable units and the procedures for doing so. Alternatives may include in-lieu fees, off-site production, preservation of subsidized affordable units at risk of converting to market rate, and land dedications.

23-3E-1080 Affordability Periods

This section will describe the required affordability period (i.e. the amount of time that the affordable unit must remain below market), which may differ for rental and ownership units.

23-3E-1090 Application Procedures

This section will describe the application requirements and procedures for participating in the Affordable Housing Incentive Program.

23-3E-1100 Compliance and Enforcement

This section will describe monitoring, compliance, and enforcement procedures.