

vs 12-16-2003  
Item 19  
FILED FOR RECORD



TRANSPORTATION AND NATURAL RESOURCES

JOSEPH P. GIESELMAN, EXECUTIVE MANAGER

2003 DEC 16 PM 4: 24

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DANA DEBEAUVOIR  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

Date: December 12, 2003

agenda items 16 and 19

MEMORANDUM

TO: Members of the Commissioners' Court  
FROM: Joseph P. Gieselman, Executive Manager  
SUBJECT: Consolidated Travis County – City of Austin subdivision regulation

Proposed Motion:

CONSIDER AND TAKE APPROPRIATE ACTION ON THE FOLLOWING: PROPOSAL FOR CHAPTER 30, TRAVIS COUNTY CODE, JOINT TRAVIS COUNTY/CITY OF AUSTIN SUBDIVISION CODE FOR EXTRATERRITORIAL JURISDICTION;

Summary and Staff Recommendations:

Chapter 30 is the consolidated development code that the County and City of Austin are proposing to adopt in order to be compliant with HBs 1445 and 1204. This draft code was reviewed by the development stakeholders who made the following comments:

- A single determination is required;
- A single point of contact would facilitate the review process;
- The City of Austin should not review utility construction plans in areas where they are not the utility provider;
- A minimum of 15' of frontage is required for flag lots;
- The subdivision fiscal posting policy should be consistent for both the County and the City of Austin.

A vast majority of the stakeholders' comments relate to the idea of single determination. The current wording in the Interlocal Agreement calls for a dispute elevation process, which would end with the dispute being elevated to the managing officials. The current elevation process does not mandate the managing officials reach a single determination. We are recommending that the Interlocal Agreement, and Chapter 30, be amended to mandate that the managing officials make a single determination so that a development dispute is resolved prior to final action by either the County or the City. The development stakeholders are concerned about the prospect of the final determination being made late in the process, which could result in the development approval being slowed down.

TNR proposes that the Interlocal Agreement and Chapter 30 be amended to include the provision requiring a single point of contact be established for each application. A protocol, or operating procedure, must be established for Single Office case management and constituent communication. It must be determined which entity serves as the Case Manager for an application, how the Case Manager will facilitate timely development review and dispute resolution, and how the Single Office will communicate with constituents. The Single Office must operate as a coordinated unit and not a blending of two separate jurisdictions. Connection to the City of Austin's PIER computer development tracking software is critical for the Single

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**ORDER OF THE TRAVIS COUNTY COMMISSIONERS COURT**

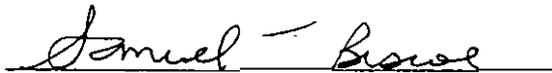
WHEREAS, Chapter 242, Local Government Code, provides that a county and a municipality may both regulate the subdivision of land in the extraterritorial jurisdiction (ETJ) of the municipality only if certain conditions are met, including establishing a single set of a regulations related to plats, subdivision construction plans, and subdivisions of land in the ETJ; and

**WHEREAS**, Travis County and the City of Austin both regulate subdivisions in the city's ETJ, and intend to meet the requirement for a single set of regulations and certain other requirements of Chapter 242, Local Government Code, by adopting into their respective codes the attached Chapters 30-1 through 30-5, Austin/Travis County Subdivision Regulations; and

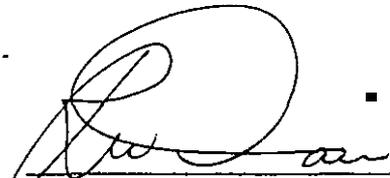
WHEREAS, on October 17 and 19, 2003, Travis County published notice of the proposed amendments to the Travis County Code, as required by law;

NOW, THEREFORE, in fulfillment of the requirements of Chapter 242, Local Government Code, the Travis County Commissioners Court by this order adopts the attached Title 30, Austin/Travis County Subdivision Regulations, as Chapters 30-1 through 30-5, Travis County Code. Chapters 30-1 through 30-5, Travis County Code shall take effect December 22, 2003 and shall apply to plats, subdivision construction plans, and subdivisions of land in the City of Austin's ETJ in lieu of current Chapter 82, Travis County Code. Chapter 82 shall otherwise continue to apply to all other development applications and approvals to the same extent it applied before adoption of this order.

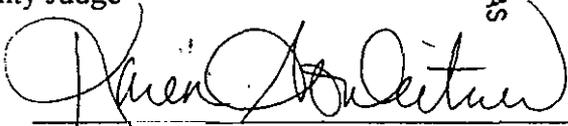
ORDERED this 16\* day of December, 2003.



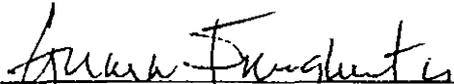
**Samuel T. Biscoe**  
County Judge



**Ron Davis**  
County Commissioner, Precinct 1



**Karen Sonleitner**  
County Commissioner, Precinct 2



**Gerald Daugherty**  
County Commissioner, Precinct 3

*absent*

**Margaret Gómez**  
County Commissioner, Precinct 4

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2003 DEC 24 AM 11:01  
D. J. REBEAUVOIR  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

12/16/03  
#19

FILED FOR RECORD

# Memorandum

2003 DEC 16 PM 4: 24

DANA DEBEAUVOIR  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

RECEIVED  
COUNTY JUDGE'S OFFICE  
03 DEC 15 PM 4: 16

To: Travis County Commissioners Court  
From: Harry Savio  
Date: 12/15/2003  
Re: Status of Directed Discussions

As directed by the County Commissioners Court, the Real Estate Stakeholders met with City and County staff on December 10. Thank you for making the interchange possible. Below is my summary of the results of the meeting:

- City/County Staff vs Stakeholder Approach to Authority – Staff to **be** Enacted

The Stakeholders submitted an alternative that made it clear the City had primary authority over environment and water quality reviews and the County had primary authority over roads and drainage. The City and County staff said that in practice, the result would be similar with a streamlined, effective process.

It became clear that the staff would not modify their position. For the stakeholders, if the intent of the law is being met, they would accept the approach. Providing there is a review of the new process.

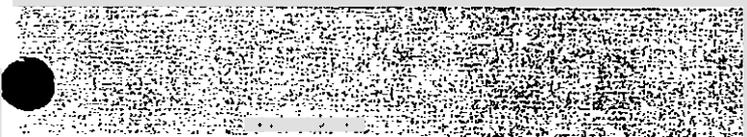
- Sunset of the Agreement – Time line for review included. Sunset Rejected

The Stakeholders suggested that if the respective staff were moving forward on a "Trust Us" type of approach, the agreement should have a sunset provision to affirmatively require re-inaction at the end of 6 months. The staff did not want to have to go back through such a long and difficult ordeal. The Staff said they would recommend a review and use of a smaller group to assess performance.

- Amend Interlocal to Allow City Review of Utility Plans – City is moving forward

The area in dispute deals with Water & Wastewater utilities. Electric, phone and gas services are only reviewed for easements. The City wants to retain authority to review water & wastewater, whether or not the City is the provider. The County does not regulate utilities and is unaffected except in so far as utilities are used as a tool to deny affordable housing or new economic development.

- Fees – City Will Only Participate by Providing Data. County will recommend modified scope of work for audit. Unclear status.



Office to work in the way it was intended. The PIER system would allow the County to have access to the documents the applicant submits with the development application, fee and fiscal information, and review comments from all the various development reviewers. Although connection to the PIER system was agreed to in the Interlocal Agreement, as of this date, issues with the software and hardware have prevented Travis County having a connection to PIER. This connection will likely have a fiscal impact on Travis County.

The development stakeholders want to amend Chapter 30 to reflect the current wording in the Interlocal Agreement, which implies that the City of Austin only reviews utility plans if they are the utility provider. This language is found in an asterisk in matrix, which delineates which jurisdiction has the authority to grant variances. The City of Austin wants to amend the wording in the Interlocal Agreement to reflect the fact that it reviews utility plans in the ETJ. The City of Austin wants to retain the ability to review all utility plans to ensure that utility lines are sized adequately for fire flow and meet the service requirements in areas that they expect to annex. TNR agrees with the City of Austin's proposed amendment to the Interlocal Agreement, but wants to continue to work with the City of Austin and the development stakeholders to reach a compromise on this issue. TNR expects to bring back a second amendment to the Interlocal Agreement sometime in 2004, once this issue is resolved.

Travis County, the City of Austin and the development stakeholders have reached resolution on the flag lot frontage requirement and the fiscal posting policy. Travis County and the City of Austin agree with the stakeholder comment regarding minimum lot frontage. County code and City code had been inconsistent on this requirement. Subdivision fiscal posting policy is the last remaining significant stakeholder comment. The development community decided that they prefer to keep the current fiscal posting policy. Currently fiscal is posted in the period of time between approval by the City of Austin and Travis County. The developer has 90 days (after City of Austin approval) to post fiscal and be placed on the Commissioners Court agenda.

Both Travis County and the City of Austin are continuing to meet with the development community to resolve these outstanding issues and develop the mechanisms to ensure that the Single Office functions effectively. TNR is recommending language be added to the Interlocal Agreement which stipulates that from January through June 2004, the Managing Officials monitor the implementation of the Joint Code and establish a Process Review Board comprising City and County staff and representatives of stakeholders in the subdivision process, which shall meet monthly to identify and analyze problems and successes in the process. By July 31, 2004, the Managing Officials shall submit a report, prepared in consultation with representatives of stakeholders in the subdivision process, to the City Council and County Commissioners Court evaluating implementation of the Joint Code and any improvements to the process that could be derived from amending or repealing it. The City Council and County Commissioners Court shall place on their agendas one or more discussion items on the report as soon as practicable after it is submitted, and shall take final action on any such amendments or repeal by October 31, 2004. TNR recommends this motion.

**Budgetary and Fiscal Impacts:**

None.

**Issues and Opportunities:**

None.

**Required Authorizations:**

Tom Nuckols. Assistant County Attorney

Exhibits: none

The City will provide data to the independent auditor. There will not be participation by the Stakeholders. The County staff is recommending to the Commissioners Court that the County proceed. The City did state that they will work to eliminate duplication of effort, but did not commit to any specifics or time frame. Stakeholders recognize that this issue can not be resolved prior to January 1. The remaining question that can only be resolved by the Commissioners Court is, "Is this something that should be forced to arbitration where the City will be required to submit filings with the arbitrator rather than an independent auditor?"

- Other Legal Issues – Submitted to Tom Nuckols for Review

The group ran out of time and five (5) smaller but substantive issues were submitted directly to Tom. He has the opportunity to review them and seek Court approval (or not). If the Commissioners Court should approve and the City concur, the changes apparently can be made by the City early next year without requiring binding arbitration.

# TITLE 30. AUSTIN / TRAVIS COUNTY SUBDIVISION REGULATIONS

## CHAPTER 30-1. GENERAL PROVISIONS AND PROCEDURES

### ARTICLE 1. APPLICABILITY; CONFLICTS.

#### § 30-1-1 APPLICABILITY.

This title applies to the subdivision of land in the portion of the City of Austin's extraterritorial jurisdiction that is within Travis County, including the areas that the city has annexed for limited purposes.

*Source: City/County subdivision agreement.*

#### § 30-1-2 CONFLICTS.

- (A) Requirements of this title are cumulative of requirements that are imposed by other ordinances, rules, or regulations, or by private easements, covenants, restrictions, or agreements. If a conflict occurs, the requirements of this title control.
- (B) If there is a difference of meaning or implication between the text of a provision of this title and an illustration or table, the text controls.

*Source: City Code Section 25-1-3; County Code Section 82.101.*

### ARTICLE 2. DEFINITIONS; MEASUREMENTS.

#### § 30-1-21 DEFINITIONS.

Unless a different definition is expressly provided, in this title:

- (1) APPROVAL means:
  - (a) a final decision granting or approving an application; or
  - (b) an approval granted subject to modifications or conditions.
- (2) ATTACHED, when used with reference to two or more buildings, means having one or more common walls or being joined by a covered porch, loggia, or passageway.

- (3) **BLOCK** means one or more lots, tracts, or parcels of land bounded by streets, railroads, or subdivision boundary lines.
- (4) **BUILDING COVERAGE** means the area of a lot covered by buildings or roofed areas, but excludes ground level paving, landscaping, open recreational facilities, incidental projecting eaves, balconies, and similar features.
- (5) **BUILDING LINE** means a line beyond which a building must be set back from the street line.
- (6) **CENTRAL DISPATCHER** means a person designated by the single office to perform the tasks provided in Section 30-1-352 (*Inspection Requests*).
- (7) **CITY** means the City of Austin, Texas.
- (8) **CITY COUNCIL** or **COUNCIL** means the city council of Austin, Texas.
- (9) **COLLECTOR STREET** means a street collecting traffic from other streets and serving as the most direct route to a thoroughfare.
- (10) **COMMISSIONERS COURT** means the commissioners court of Travis County, Texas.
- (11) **COMMON AREA** means an area held, designed, or designated for the common use of the owners or occupants of a townhouse project, planned, unit development, apartment, condominium, mobile home park, or subdivision.
- (12) **COMMON SIDE LOT LINE** means a side lot line between two or more lots.
- (13) **COMPREHENSIVE PLAN** means the plan adopted by the city council in accordance with Article X, Section 5 (*The Comprehensive Plan*), of the City Charter.
- (14) **CONDEMNATION** includes a purchase or donation of property under the threat of condemnation, but excludes a dedication of property as a condition of zoning, subdivision, site plan, or building permit approval.
- (15) **CONTRACTOR** means a person employed by an owner to develop property.

- (16) CORNER LOT means a lot located at the intersection of two streets, or of two segments of a curved street, forming an angle of not more than 135 degrees.
- (17) COUNTY means Travis County, Texas.
- (18) CURB means a structure located along the edge of a roadway, normally constructed integrally with the gutter, that strengthens and protects the pavement edge and clearly defines the pavement edge.
- (19) DENIAL means a final decision denying an application.
- (20) DESIRED DEVELOPMENT ZONE means the area not within the drinking water protection zone.
- (21) DEVELOPMENT means the construction or reconstruction of a building or road; the placement of a structure on land; the excavation, mining, dredging, grading, or filling of land; the removal of vegetation from land; or the deposit of refuse or waste on land. Development does not include:
- (a) lawn and yard care, including mowing, gardening, tree care, and maintenance of landscaped areas;
  - (b) removal of trees or vegetation damaged by natural forces;
  - (c) agricultural activity that is not prohibited by Section 30-5-321 (*Clearing Of Vegetation*); or
  - (d) the repair, maintenance, or installation of a utility, drainage or street system that does not disturb land or increase impervious cover.
- (22) DIRECTOR, when used without a qualifier, means the director of the city's Watershed Protection **And** Development Review Department.
- (23) DOMINANT SIDE YARD, when used in reference to a small lot, means the side yard having the larger width.
- (24) DRINKING WATER PROTECTION ZONE means the areas within the Barton Springs Zone, the Barton Creek watershed, all water supply rural watersheds, and all water supply suburban watersheds, as described in Section 30-5-2 (*Descriptions Of Regulated Areas*), that are in the planning jurisdiction.
- (25) DRIVEWAY means a surfaced area providing vehicular access between a street and an off-street parking or loading area.

- (26) **DRIVEWAY APPROACH** means an area between the roadway and private property designed for and intended to provide vehicular access from the roadway to private property.
- (27) **DWELLING UNIT** means a residential unit other than a mobile home providing complete, independent living facilities including permanent provisions for living, sleeping, eating, and cooking.
- (28) **EXECUTIVE MANAGER** means the executive manager of the county's Transportation and Natural Resources Department.
- (29) **FINAL PLAT** or **PLAT** means a map or drawing of a subdivision that is intended for recordation in the official public records of the county after approval by the land use commission, the city council, or the commissioners court, as applicable.
- (30) **FLAG LOT** means a lot that abuts a street by means of a strip of land that does not comply with the requirements of this chapter for minimum lot width, is not less than 15 feet wide, and is used for access.
- (31) **FRONT LOT LINE** means:
- (a) for an interior lot, the lot line abutting the street;
  - (b) for a corner lot, the lot line designated as the front lot line by a subdivision or parcel map, or, if none, the shorter lot line abutting a street;
  - (c) for a through lot, the lot line abutting the street that provides the primary access to the lot; and
  - (d) for a flag lot, the lot line designated as the front lot line by a subdivision or parcel map, or if none, the line determined by the single office to be the front lot line.
- (32) **FRONT YARD** means a yard extending the full width of a lot between the front lot line and the front setback line.
- (33) **GROSS SITE AREA** means the total site area.
- (34) **GUTTER** means a shallow water drainage area adjacent to a curb
- (35) **HEIGHT**, when used in reference to a building, means the vertical distance from the average of the highest and lowest grades adjacent to the building to:

- (a) for a flat roof, the highest point of the coping;
  - (b) for a mansard roof, the deck **line**;
  - (c) for a pitched or hip roof, the average height of the highest gable; or
  - (d) for other roof styles, the highest point of the building.
- (36) HILL COUNTRY ROADWAY means a roadway described in Section 30-3-141 (*Hill Country Roadways and Corridors Identified*).
- (37) HILL COUNTRY ROADWAY CORRIDOR means an area described in Section 30-3-141 (*Hill Country Roadways and Corridors Identified*).
- (38) INTERESTED PARTY means a person who meets the criteria established by Section 30-1-152 (*Interested Parties*).
- (39) INTERIOR LOT means a lot other than a corner lot.
- (40) INTERIOR LOT LINE means a lot line not abutting a street.
- (41) INTERIOR YARD means a yard, not adjacent to a street, that is determined on the basis of an interior lot line.
- (42) JOINT USE DRIVEWAY means a driveway located entirely or partially on a tract of land that is available for use by an adjoining tract of land as ingress or egress to a public street.
- (43) LAND USE COMMISSION means the Planning Commission or the Zoning and Platting Commission, **as** determined in accordance with City Code Section 25-1-46 (*Land Use Commission*).
- (44) LOCAL STREET means a street that serves traffic within a neighborhood or limited residential district, and which is not necessarily continuous through several residential districts.
- (45) LOT means:
- (a) a parcel of real property with a unique designation shown on a plat, record of survey, parcel map, or subdivision map recorded in the office of the county clerk; or
  - (b) a parcel of real property established under zoning or subdivision regulations.
- (46) LOT LINE means a line or series of connected line segments bounding a lot.

- (47) MAINTENANCE EASEMENT, when used in reference to a small lot, means an easement granted by the owner of one lot to the owner of an adjoining lot for maintenance of a dwelling within five feet of a common side lot line.
- (48) MANAGING OFFICIAL means a person who acts on behalf of the city or the county to administer the 'Agreement On Subdivision Platting In The Extraterritorial Jurisdiction Between The City Of Austin And Travis County dated April 1, 2002, as amended. One managing official is appointed by the city, and one managing official is appointed by the county, in accordance with the agreement.
- (49) MUNICIPAL UTILITY DISTRICT means a district created under Chapters 50 and 54 of the Texas Water Code.
- (50) NEAR-TERM ANNEXATION AREA means an area in the city's extraterritorial jurisdiction that:
- (a) is included in the city's municipal annexation plan adopted in accordance with Subchapter C, Chapter 43, Local Government Code;
  - (b) has been or is being annexed for limited purposes under Subchapter F, Chapter 43, Local Government Code, unless the date for full purpose annexation is postponed to a date more than three years after the date of limited purpose annexation in accordance with Local Government Code Section 43.127;
  - (c) is the subject of an agreement to which the city and the county are parties and that provides assurances to the county for the design, construction, and maintenance of infrastructure, including infrastructure for transportation, floodplain management, or stormwater conveyance; or
  - (d) is described on Appendix "A".
- (51) NEIGHBORHOOD ORGANIZATION means an association that has registered as a neighborhood organization.
- (52) NOTICE OWNER means the owner of real property as shown on the records of the tax appraisal district in the county in which the property is located.
- (53) PEDESTRIAN WAY means the portion of a street right-of-way not used for a roadway.

- (54) PLANNED UNIT DEVELOPMENT means land developed as a single unit under unified control.
- (55) PLANNING JURISDICTION means the city and its extraterritorial jurisdiction.
- (56) PLATTING BOARD means the land use commission or the commissioners court, as determined by Section 30-1-92 (*Discretionary Authority*).
- (57) PLATTING OFFICIAL means the director or the executive manager, as determined by Section 30-1-92 (*Discretionary Authority*).
- (58) PRELIMINARY PLAN means a map or drawing of a proposed plat, intended for consideration by the land use commission, the city council, or the commissioners court, as applicable, in accordance with the requirements of this title.
- (59) PROPERTY means real property.
- (60) REAR LOT LINE means the lot line that does not intersect the front lot line, or that is determined in accordance with Section 30-1-22 (*Measurements*).
- (61) REAR YARD means a yard extending the full width of a lot between the rear lot line and the rear setback line, excluding any area located within the street side yard of a corner lot.
- (62) RECORD OWNER means the owner of real property as shown by the deed records of the county in which the property is located.
- (63) RELEASE means the written certification that a plat or subdivision construction plan has been approved, that the plat or construction plan complies with this title, and that the conditions of approval for the plat or construction plan have been satisfied.
- (64) REVISION means a change in an approved or released plan that is initiated by an applicant.
- (65) RIGHT-OF-WAY means land dedicated or reserved for streets, utilities, or other public facilities.
- (66) ROADWAY means the portion of a street right-of-way used for vehicular travel.

- (67) **SETBACK LINE** means a line within a lot parallel to and measured from a corresponding lot line, forming the boundary of a yard and governing the placement of structures and uses on the lot.
- (68) **SIDE LOT LINE** means a lot line intersecting the front lot line and extending a minimum distance of 75 feet.
- (69) **SIDEWALK** means the paved portion of a pedestrian way
- (70) **SIDE YARD** means a yard extending the depth of a lot from the front yard to the rear lot line between the side lot line and the side setback line. For a comer lot, a street side yard is a yard that extends from the front yard to the rear lot line.
- (71) **SINGLE OFFICE** means the City of Austin – Travis County Single Subdivision Office.
- (72) **SITE** means a contiguous area intended for development, or the area on which a building has been proposed to be built or has been built. A site may not cross a public street or right-of-way.
- (73) **SMALL LOT** means a lot with an area of less than 5,750 square feet.
- (74) **STAFF** means a city or county employee, as applicable.
- (75) **STREET YARD** means a yard adjacent to a street and determined on the basis of a street lot line.
- (76) **STRUCTURE** means a building of any kind, or a piece of work artificially built-up or composed of parts joined together in a definite manner.
- (77) **SUBDIVIDE** means:
- (a) to divide land into two or more lots or sites for the purpose of sale or development;
  - (b) to resubdivide an existing lot; or
  - (c) to combine two or more lots into the same number or fewer lots with different boundaries.
- (78) **SUBORDINATE SIDE YARD**, when used in reference to a small lot, means the side yard having the smaller width.
- (79) **THROUGH LOT** means a lot, other than a comer lot, abutting more than one street.

- (80) TOWNHOUSE means, a dwelling unit having a common wall with or abutting one or more adjoining dwelling units in a townhouse group.
- (81) TOWNHOUSE LOT means the portion of a townhouse development that is intended for separate ownership as the location of a single townhouse and associated private yard area.
- (82) TRANSPORTATION PLAN means the Capital Area Metropolitan Planning Organization long range transportation plan.
- (83) UPDATE means additional information, a preliminary plan, a final plat, or a subdivision construction plan submitted by an applicant in response to comments by a review entity.
- (84) USE EASEMENT, when used in reference to a small lot, means an easement granted by the owner of a small lot with the subordinate side yard to the owner of a small lot with a dominant side yard along the common lot line, and which allows the occupant of the dwelling unit on the lot having the dominant side yard the use, enjoyment, and privacy of the dominant side yard.
- (85) VARIANCE means a waiver of a provision of this title under Article 9, Division 3 (*Variances*).
- (86) WORKING DAY excludes a Saturday, Sunday, or an official city or county holiday:
- (87) YARD means an open space on a lot adjoining a lot line.
- (88) ZERO LOT LINE means a common lot line on which a wall of a structure may be constructed.

*Source: City Code Section 25-1-21.*

*Comment: Added definitions of "city", "city council", "commissioners court", "county", "executive manager", "managing official", "planning board", "planning official", and "single office" for drafting convenience in expressing the requirements of the City/County subdivision agreement.*

### **§ 30-1-22 MEASUREMENTS.**

- (A) Lot area is the net horizontal area within the lot lines, excluding the portion of the lot:
  - (1) that provides street access, if the lot is a flag lot; or

- (2) that is located below **492.8** feet of elevation above sea level, if the lot is adjacent to Lake Austin.
- (B) Lot depth is the horizontal distance between the mid-point of the front lot line and the midpoint of the rear lot line.
- (C) Except as otherwise provided in this title, lot width is measured at the front setback line and at a distance of 50 feet to the rear of the front setback line.
- (D) In determining required yards and setbacks for an irregularly shaped lot or a lot bounded by only three lot lines, the rear lot line is:
- (1) a line ten feet long;
  - (2) parallel to the front lot line; and
  - (3) at the most distant location from the front lot line.
- (E) A distance from a structure to a line or location is measured from the exterior face of the nearest wall or vertical support of the structure to the line or location. For a structure that does not have a wall or vertical support, the single office shall determine the point of measurement.

*Source: City Code Section 25-1-22.*

### **ARTICLE 3. ACCOUNTABLE ENTITIES.**

#### **§ 30-1-41 CITY COUNCIL.,**

The city council enacts and amends this title with the concurrence of the commissioners court. The city council has the duties and powers prescribed by this title and may make determinations relating to certain subdivisions.

*Source: Based on City Code Chapter 25-1, Article 3 (Accountable Entities).*

#### **§ 30-1-42 COMMISSIONERS COURT.**

The commissioners court enacts and amends this title with the concurrence of the city council: The commissioners court has the duties and powers prescribed by this title and acts as the platting board for certain subdivision applications. Commissioners court approval is required for each preliminary plan and final plat, except where otherwise provided.

*Source: Based on City Code Chapter 25-1, Article 3 (Accountable Entities).*

**§ 30-1-43 LAND USE COMMISSION.**

The land use commission acts as the platting board for certain subdivision applications. Land use commission approval is required for certain preliminary plans and final plats.

*Source: Based on City Code Chapter 25-1, Article 3 (Accountable Entities).*

**§ 30-1-44 MANAGING OFFICIALS.**

- (A) The managing officials act on behalf of the city and the county to administer the Agreement On Subdivision Platting In The Extraterritorial Jurisdiction Between The City Of Austin And Travis County dated April 1,2002.
- (B) One managing official is appointed by the city, and one managing official is appointed by the county, in accordance with the Agreement On Subdivision Platting In The Extraterritorial Jurisdiction Between The City Of Austin And Travis County dated April 1,2002.
- (C) The managing officials have the duties and powers prescribed by this title.

*Source: Based on City Code Chapter 25-1, Article 3 (Accountable Entities).*

**§ 30-1-45 PLATTING OFFICIAL.**

The platting official is a city or county official who has the duties and powers prescribed by this title. Whether a city official or a county official acts as the platting official is determined by Section 30-1-92 (*Discretionary Authority*).

*Source: Based on City Code Chapter 25-1, Article 3 (Accountable Entities).*

**§ 30-1-46 PLATTING BOARD.**

The platting board has the duties and powers prescribed by this title relating to the approval of subdivisions. The land use commission or the commissioners court may act as the platting board, as determined by Section 30-1-92 (*Discretionary Authority*).

*Source: Based on City Code Chapter 25-1, Article 3 (Accountable Entities).*

**§ 30-1-47 SINGLE OFFICE.**

The single office has the duties and powers prescribed by this title relating to the approval of subdivisions, exercised in accordance with Section 30-1-93 (*Single Office Structure And Function*).

*Source: Based on City Code Chapter 25-1, Article 3 (Accountable Entities).*

## **ARTICLE 4. ADMINISTRATIVE RULES.**

### **§ 30-1-61 ADMINISTRATIVE RULES.**

- (A) Except as provided in Subsection (B), an administrative rule to implement, administer, enforce, or comply with the title, including a standard form, is not valid unless adopted by both the city and the county.
- (B) Administrative rules that relate to the subject matter of this title and that are in effect on January 1, 2004 govern this title until amended or repealed in accordance with this section.
- (C) The city may adopt an administrative rule in accordance with City Code Chapter 1-2 (*Adoption of Rules*).
- (D) The county may adopt an administrative rule by action of the commissioners court.
- (E) After the city and county have both adopted an administrative rule, the managing officials shall certify that the administrative rule applies to this title

*Source: City/County subdivision agreement.*

## **ARTICLE 5. APPLICATION AND APPROVAL.**

### **Division 1. General Provisions.**

### **§ 30-1-71 ORDER OF PROCESS.**

- (A) **An** applicant must obtain city and county approvals in the following order:
  - (1) zoning, for an area annexed by the city for limited purposes;
  - (2) subdivision;
  - (3) site plan; and
  - (4) building permit, for an area annexed by the city for limited purposes.
- (B) **An** applicant may concurrently file applications for the approvals listed in Subsection (A).

*Source: City Code Section 25-1-61.*

**§ 30-1-72 DEVELOPMENT ASSESSMENT.**

- (A) A person considering development in the planning jurisdiction may request that the single office prepare an assessment of the proposed development. The city and county encourage a development assessment for a residential project of more than 200 acres, or a commercial or mixed use project of more than 50 acres.
- (B) A development assessment is based on information provided by the requestor and the requirements applicable at the time of the request.
- (C) A development assessment includes:
- (1) an explanation of the procedures and requirements of this title for zoning and rezoning, subdivision, site plan approval, and building permits;
  - (2) an estimate of fees; and
  - (3) an identification of potential major issues for the project, including whether:
    - (a) for an area annexed by the city for limited purposes, the proposed land use conforms to the comprehensive plan and current zoning;
    - (b) proposed arterials, if any, comply with the transportation plan;
    - (c) proposed collector streets, if any, are adequate for the projected traffic;
    - (d) there are significant environmental issues;
    - (e) there are significant drainage or floodplain issues;
    - (f) adequate utilities are available; and
    - (g) the proposed density or floor area:
      - (i) is consistent with the requirements of this title;
      - (ii) for an area annexed by the city for limited purposes, is appropriate, considering the surrounding land use or zoning; and
      - (iii) is consistent with watershed requirements.
- (D) The single office shall deliver a development assessment to the requestor within 21 days after the request is received. Mer its delivery, the requestor

may seek a meeting with the single office to discuss the development assessment.

*Source: City Code Section 25-1-62.*

**§ 30-1-73 DISAPPROVAL AND DENIAL.**

- (A) **An** application that is disapproved may be updated and resubmitted for review before the update deadline expires. A disapproved application that is not updated is denied when the update deadline expires. An application that does not comply with the requirement of this title on the update deadline is denied.
- (B) An application that is denied may not be updated. A new application is required.

*Source: City Code Section 25-1-63.*

**§ 30-1-74 TRANSFER OF SUBDIVISION APPROVAL.**

An approval of a preliminary plan, final plat, or subdivision construction plan transfers with the ownership of the land.

*Source: City Code Section 25-1-64.*

**Division 2. Approval and Authority; Single Office.**

**§ 30-1-91 FINAL APPROVAL.**

- (A) In accordance with Local Government Code Chapters 212 and 232, a preliminary plan or final plat must receive final approval from both the city and the county, unless an approval by the city or county is not required under **Chapter 30-2, Article 1** (*Subdivision Compliance*).
- (B) The city's final approval authority is exercised by the director, land use commission, or the council in accordance with Section 30-2-84 (*Plat Approval Authority And Criteria*).
- (C) The county's final approval authority is exercised by the executive manager or commissioners court in accordance with Section 30-2-84 (*Plat Approval Authority And Criteria*).

*Source: Local Government Code, City Code, County Code, City/County subdivision agreement.*

**§ 30-1-92 DISCRETIONARY AUTHORITY:**

- (A) In this section, “discretionary authority” means the authority to make a discretionary determination relating to a subdivision variance or waiver. The term excludes final approval of a preliminary plan or final plat.
- (B) This section allocates discretionary authority between the city and county.
- (C) Except as provided in Subsection (D), discretionary authority is exercised by the platting board or the platting official.
  - (1) The platting board is:
    - (a) for the city, the land use commission; and
    - (b) for the county, the commissioners court.
  - (2) The platting official is:
    - (a) for the city, the director; and
    - (b) for the county, the executive manager.
- (D) The commissioners court may exercise authority allocated to the county’s platting official.
- (E) Except as provided in Subsections (G) and (H), the city has all discretionary authority in a near-term annexation area.
- (F) Except as provided in Subsections (G) and (H), outside a near-term annexation area:
  - (1) the county has discretionary authority over issues relating to transportation, floodplain management, or stormwater conveyance;
  - (2) the city has discretionary authority over issues relating to:
    - (a) water, wastewater, electric, and telecommunication utilities;
    - (b) the environment, including stormwater quality controls; or
    - (c) Austin – Bergstrom International Airport; and
  - (3) for all other issues, the single office shall determine whether the city or the county has discretionary authority.

- (G) If a parcel of land is excepted or exempted from the city requirement to plat by Chapter 30-2, Article 1 (*Subdivision Compliance*) but is subject to the county requirement to plat, the county platting official and county platting board exercise all discretionary authority.
- (H) If a parcel of land is excepted or exempted from the county requirement to plat by Chapter 30-2, Article 1 (*Subdivision Compliance*) but is subject to the city requirement to plat, the city platting official and city platting board exercise all discretionary authority.

*Source: City/County subdivision agreement.*

### **§ 30-1-93 SINGLE OFFICE STRUCTURE AND FUNCTION.**

- (A) The single office staff shall review and make determinations relating to subdivisions.
- (B) When this title prescribes a duty or power to be exercised by the single office, a consensus of the single office staff shall exercise the duty or power.
- (C) If the single office staff does not reach a consensus on an issue, the managing officials shall make a single determination and exercise the duty or power.
- (D) For each subdivision application, the single office shall designate a staff person to serve as a single point of contact for the applicant and to assist the applicant in processing the application.

*Source: City/County subdivision agreement.*

### **Division 3. Filing; Review.**

### **§ 30-1-111 AUTHORITY TO FILE AN APPLICATION.**

A record owner or the record owner's agent may file an application for a permit or approval required by this title. The single office may require an applicant to provide evidence of the applicant's authority to file an application.

*Source: City Code Section 25-1-81.*

### **§ 30-1-112 APPLICATION FILING AND REVIEW.**

- (A) A person who seeks to subdivide land, vacate a plat, or construct subdivision infrastructure must file with the single office an application for approval of a:
  - (1) preliminary plan;
  - (2) final plat;

- (3) amending plat;
- (4) replat;
- (5) plat vacation; or
- (6) subdivision construction plan.

(B) The city and county shall review and make a determination on each application in accordance with this title.

*Source: City/County subdivision agreement.*

### **§ 30-1-113 APPLICATION REQUIREMENTS.**

- (A) The single office may propose rules to be adopted by the city and county establishing the requirements for an application.
- (B) The single office may permit an applicant to omit required information from an application that the single office determines is not material to a decision on the application.
- (C) Except as provided in Subsection (B), the single office may not accept an application unless the application is complete and the applicant has paid the required fee.

*Source: ~~City~~ Code Section 25-1-82.*

### **§ 30-1-114 APPLICATIONS RELATING TO A CLOSED MUNICIPAL SOLID WASTE LANDFILL.**

- (A) This section applies to an application for approval that may permit the construction or alteration of
  - (1) a commercial or public enclosed structure that is designed for use by humans; or
  - (2) a structure containing three or more dwelling units.
- (B) The single office may not approve an application for subdivision unless the applicant has delivered to the single office:
  - (1) certification from a registered engineer that the site does not overlie a closed municipal solid waste landfill; or
  - (2) if the site overlies a solid municipal waste landfill:

- (a) a permit from the Texas Commission on Environmental Quality; or
- (b) written notification from the Texas Commission on Environmental Quality that a permit is not required.

*Source: City Code Section 25-1-83.*

### **§ 30-1-115 PROCESSING CYCLES.**

- (A) The single office may establish regular cycles for consideration of applications by city staff, boards, commissions, and the council. The managing officials shall advise the council and commissioners court of the creation or change of a cycle.
- (B) **An** established cycle supersedes conflicting requirements of this title applicable to the city, except those mandated by state law.

*Source: City Code Section 25-1-84.*

### **§ 30-1-116 SEQUENCE OF REVIEW.**

- (A) **An** application may not be placed on a city board or commission agenda unless single office review is finished and a single office recommendation is available for city board or commission consideration. This requirement does not apply if single office review is not finished by the deadline prescribed by this title.
- (B) **An** application may not be placed on the land use commission or council agenda unless recommendations from all other city boards and commissions required to review the application are available for consideration. The director may waive this requirement if the director determines that:
  - (1) a city board or commission did not review the application in a reasonable period of time; and
  - (2) the delay is attributable to the city board or commission and not the applicant.

*Source: City Code Section 25-1-85.*

### **§ 30-1-117 BOARD AND COMMISSION SCHEDULE.**

The single office shall inform a city board or commission of the dates that other boards or commissions are scheduled to consider an application. A city board or commission shall act diligently to finish its review in accordance with the schedule.

*Source: City Code Section 25-1-86.*

**§ 30-1-118 EXTENSION OF REVIEW PERIOD.,**

- (A) The single office may extend a review period one time. The applicant must agree to an extension period that exceeds the length of the original review period..
- (B) The single office shall give notice under Section 30-1-154(B) (*Notice Of Applications And Administrative Decisions*) of an extension of a review period.
- (C) If staff review is not finished at the expiration of an extended review period the single office shall move an application to the next phase of process with the notation that staff review is not finished.

*Source: City Code Section 25-1-87.*

**§ 30-1-119 EXTENSION OF UPDATE DEADLINE.**

- (A) **An** applicant may request that the single office extend a deadline for submitting an update to an application by filing a written request and justification with the single office before the expiration of the deadline.
  - (1) The single office must give notice under Section 30-1-154(B) (*Notice Of Applications And Administrative Decisions*) of **an** extension request under this subsection.
  - (2) The single office may grant an extension request under this subsection if the single office determines that good cause exists for the extension. **An** extension period may not exceed the length of the original time period for submitting an update to the application.
- (B) If the time required for staff review of an application exceeds the review time provided by this title, the single office shall extend the deadline for submitting an update to an application for a time period equal to the number of days by which the actual time for review exceeds the review time provided by this title. The single office shall notify the applicant of the new deadline for submitting an update.

*Source: City Code Section 25-1-88.*

## **ARTICLE 6. FEES AND FISCAL SECURITY.**

### **§ 30-1-131 FEES.**

The fees required under this title shall be established by separate city or county ordinance.

*Source: City Code Section 25-1-111.*

### **§ 30-1-132 FISCAL SECURITY.**

- (A) **An** applicant shall post fiscal security required under this title with the single office.
- (B) The single office shall determine whether fiscal security is payable to the city, the county, or both.
- (C) The amount of fiscal security posted by an applicant shall equal the estimated cost to the city or county to do the work for which the fiscal security is required. A qualified professional must provide the single office with a detailed estimate of the cost. The single office's approval of the estimate is required.
- (D) **An** applicant may post as fiscal security:
  - (1) a cash deposit;
  - (2) a performance bond; or
  - (3) a letter of credit.
- (E) The single office shall return the fiscal security to the applicant if the single office determines that:
  - (1) the applicant has obtained a certificate of compliance or final acceptance letter for the work for which the fiscal security was posted; or
  - (2) the obligation to do the work for which the fiscal security was posted has terminated.
- (F) The single office may draw on the fiscal security and pay the cost of fulfilling the applicant's obligations if the single office determines that an applicant has breached the obligations secured by the fiscal security. The single office shall pay the balance of the fiscal security, if any, to the applicant. The applicant is

liable to the single office for the cost that exceeds the amount of fiscal security, if any.

*Source: City Code Section 25-1-112.*

## **ARTICLE 7. INTERESTED PARTIES AND NOTICE.**

### **§ 30-1-151 APPLICABILITY.**

This article applies to an application to be considered by a city board or commission or the city council.

*Source: City/County subdivision agreement.*

### **§ 30-1-152 INTERESTED PARTIES.**

(A) **An** interested party is a person who has an interest in a matter that is the subject of a public hearing or administrative decision. A person has **an** interest if the person:

- (1) is the applicant or the record owner of property that is the subject of a public hearing or administrative decision; or
- (2) communicates an interest in a matter; and
  - (a) occupies a primary residence that is within 500 feet of the site of the proposed development;
  - (b) is the record owner of property within 500 feet of the site of the proposed development; or
  - (c) is an officer of an environmental or neighborhood organization that has an interest in the site of the proposed development or whose declared boundaries are within 500 feet of the site of the proposed development.

(B) A person communicates an interest in a matter that is the subject of a public hearing by:

- (1) delivering a written statement that generally identifies the issues of concern to the body conducting the hearing, either before or during the public hearing; or
- (2) appearing and speaking for the record at the public hearing.

(C) A person communicates **an** interest in a matter that is the subject of an administrative decision by delivering a written statement to the single office or by making telephone contact with the single office. The communication must:

- (1) generally identify the issues of concern;
- (2) include the person's name, telephone phone number, and mailing address;
- (3) be delivered before the earliest date on which action on the application may occur; and
- (4) if the communication is by telephone, be confirmed in writing not later than seven days after the earliest date on which action on the application may occur.

*Source: City Code Section 25-1-131.*

**§ 30-1-153 NOTICE OF PUBLIC HEARING.**

(A) For a notice required to be given under this subsection, the single office shall give notice of a public hearing before a board or commission by mailing notice not later than the 11th day before the date of the hearing to:

- (1) the applicant;
- (2) a notice owner of property located within 300 feet of the subject property;
- (3) a neighborhood organization; and
- (4) a party to an appeal.

(B) For a notice required to be given under this subsection, the single office shall give notice of a public hearing before the council by:

- (1) publishing notice not later than the 16th day before the date of the public hearing; and
- (2) mailing notice not later than the 16th day before the date of the hearing to:
  - (a) the applicant;
  - (b) a notice owner of property located within 300 feet of the subject property;

- (c) a neighborhood organization; and
  - (d) a party to an appeal.
- (C) For a notice required to be given under this subsection, the single office shall give notice of a public hearing before a board or commission or the council by:
- (1) mailing notice to a neighborhood organization not later than the 11th day before the date of a hearing scheduled before a board or commission and not later than the 16th day before the date of a hearing scheduled before the council; and
  - (2) publishing notice not later than the 16th day before the date of a hearing before the council.
- (D) This subsection applies to public hearings on two or more matters related to the same property or development..
- (1) One notice may be provided if the hearings are scheduled:
    - (a) on the same date before the same body; or
    - (b) before two or more bodies not later than the 45th day after the date of a notice.
  - (2) The single office shall provide notice not later than the date the earliest notice is required.
- (E) Notice provided under this section must:
- (1) generally describe the subject matter of the public hearing;
  - (2) identify the applicant and the location of the subject property;
  - (3) identify the body holding the public hearing and the date, time, and place of the public hearing;
  - (4) if the decision of the body holding the public hearing may be appealed, describe the procedure and requirements for an appeal; and
  - (5) include the address and telephone number of the office from which additional information may be obtained.

*Source: City Code Section 25-1-132.*

**§ 30-1-154 NOTICE OF APPLICATIONS AND ADMINISTRATIVE DECISIONS.**

- (A) For notice required to be given under this subsection, the single office shall mail notice not later than the 14th day after the filing of an application to the:
- (1) applicant;
  - (2) notice owner of real property located within 300 feet of the subject property; and
  - (3) neighborhood organization.
- (B) For notice required to be given under this subsection, the single office shall mail notice not later than one day after an administrative decision to:
- (1) the record owner of the subject property; and
  - (2) interested parties.
- (C) Notice provided under this section must:
- (1) describe the general nature of the application;
  - (2) identify the applicant and the location of the site;
  - (3) generally describe the proposed development;
  - (4) identify the entity that may approve the application;
  - (5) state the earliest date that action under a decision may occur;
  - (6) describe the procedure and requirements for becoming an interested party;
  - (7) if the decision may be appealed, describe the procedure for an appeal; and
  - (8) include the address and telephone number of the person from whom additional information may be obtained.
- (D) A person may not make a decision on an application for which notice is required to be provided under this section earlier than the 14th day after the date the notice is issued. The single office may permit the decision to be made sooner.

Source: City Code Section 25-1-133.

**§ 30-1-155 PROCEDURES AND REQUIREMENTS FOR NOTICE.**

- (A) This section applies to notice
- (B) Published notice is effective on the date a notice is published in a newspaper of general circulation in the city.
- (C) Mailed notice is effective on the date a letter is deposited in a depository of the U.S. Post Office, postage paid, and addressed:
  - (1) to an applicant, by mailing notice to the property owner or agent at the address shown on the application or on a written change of address form filed with the single office;
  - (2) to a notice owner of real property, by mailing notice to the owner shown on the records of the county tax appraisal district;
  - (3) to a record owner of real property, by mailing notice to the owner at the street address of the property or, if the property does not have a street address, to the return address shown on the deed; and
  - (4) to a neighborhood organization, by mailing notice to the agent or officer of the organization at the mailing address specified in the city registration information.
- (D) Notice by certified mail, return receipt requested, is only required if prescribed in this title.
- (E) Notice by hand delivery may be substituted for notice by mail if the addressee provides a receipt of delivery.
- (F) When mailed notice to a notice owner is required:
  - (1) except as provided in Subsection (E)(2), the single office shall prepare the list of notice owners; or
  - (2) if the county tax appraisal district maintains ownership records on an automated data base that is not accessible by the single office, the applicant shall provide a complete list of notice owners from information obtained from the tax appraisal district and shall certify its accuracy on a form provided by the single office.
- (G) The single office shall notify a neighborhood organization of

- (1) an application concerning property located completely or partially within the boundaries of the neighborhood organization; and
- (2) a proposed amendment to the text of this title.

*Source: City Code Section 25-1-134.*

## **ARTICLE 8. PUBLIC HEARING PROCEDURES.**

### **Division 1. City Procedure.**

#### **§ 30-1-171 APPLICABILITY.**

This division applies to a public hearing before a city board or commission or the city council.

*Source: City/County subdivision agreement.*

#### **§ 30-1-172 CONDUCT OF PUBLIC HEARINGS.**

- (A) A person shall register to speak at a public hearing with the presiding officer of the body conducting the hearing in the manner provided by the presiding officer.
- (B) A person who registers before the hearing may speak at the time provided in Subsection (E). A person who registers after the beginning of a hearing may speak before the close of the hearing with the permission of the presiding officer.
- (C) The speaker registration shall identify the name and mailing address of the speaker and the matter to be addressed.
- (D) A speaker shall state the speaker's name at the beginning of the speaker's presentation when addressing the body conducting the hearing.
- (E) Except as provided in Article 9 (*Appeals, Variances, and Special City Procedures*), a public hearing shall proceed as follows:
  - (1) presentation of a report by staff;
  - (2) presentation by the applicant, for a hearing on an application;
  - (3) presentation by interested parties supporting the application or proposal;
  - (4) presentation by interested parties opposing the application or proposal;

(5) rebuttal by the applicant, for a hearing on an application.

- (F) A member of the body conducting the public hearing may ask questions of a person at any time during the hearing. With the approval of the presiding officer, a person may ask a question of another person.
- (G) The body conducting a public hearing may limit a speaker's time to address the body. The presiding officer may request that a speaker eliminate repetitious or irrelevant testimony.

**Source:** *City Code Section 25-1-151*

**§ 30-1-173 POSTPONEMENT AND CONTINUATION OF PUBLIC HEARINGS.**

- (A) The body conducting a public hearing may:
  - (1) postpone a public hearing by announcing the postponement on the date and at the time and location stated in the notice for the scheduled hearing; **and**
  - (2) continue a public hearing to a later date by announcing the continuance after the hearing begins.
- (B) If the body conducting a public hearing postpones or continues a hearing to a specific date and time not later than **60** days after the date on which the postponement or continuance is announced, the announcement is adequate notice of the next hearing and additional notice is not required.
- (C) When a body conducting a public hearing postpones or continues a hearing, the next hearing shall be held at the same location as the original hearing unless a change in location is announced at the time of the postponement or continuance.
- (D) If a body does not specify a hearing date and time at the time that a postponement or continuance is announced, notice of the next hearing shall be provided in the manner required for the original hearing.

**Source:** *City Code Section 25-1-152.*

**§ 30-1-174 CHANGE OF LOCATION OF PUBLIC HEARINGS.**

- (A) The presiding officer of the body conducting a public hearing may change the location of a hearing for good cause.
- (B) The presiding officer shall post a sign notifying the public of the change of location. The sign must:

- (1) be prominently displayed at the original location of the hearing on the date and at the time of the original hearing;
- (2) identify the hearing being relocated;
- (3) state the time, date, and new location of the hearing; and
- (4) provided an explanation for relocation.'

(C) The hearing shall be postponed a sufficient period of time to provide a reasonable opportunity for interested parties to travel from the original location to the new location of the hearing.

*Source: City Code Section 25-1-153.*

### **§ 30-1-175 RECORD OF PUBLIC HEARING.**

- (A) The body conducting a public hearing shall record each public hearing on audio tape or video tape.
- (B) The official record of a public hearing includes.:
- (1) the audio tape or video tape recording of the public hearing;
  - (2) written staff reports; and
  - (3) documentary evidence submitted during a public hearing.
- (C) A person may review the official record of a public hearing.
- (D) The custodian of the records of the body conducting the hearing may establish rules regarding the time and location for review of the record.

*Source: City Code Section 25-1-154.*

## **Division 2. County Procedures.**

### **§ 30-1-191 APPLICABILITY.**

This division applies to a public hearing before the commissioners court

*Source: City/County subdivision agreement.*

### **§ 30-1-192 PROCEDURE GENERALLY.**

The commissioners court is governed by the procedures prescribed by County Code Chapter 1 (*Commissioners **Court** Rules Of Procedure*).

*Source: County Code Chapter 1.*

**§ 30-1-193 ROBERT'S RULES OF ORDER.**

Robert's Rules Of Order are the official parliamentary rules for the commissioners court, except as otherwise provided by state law

*Source: County Code Section 1.014*

**§ 30-1-194 TESTIMONY TO COMMISSIONERS COURT.**

Persons who give testimony to the commissioners court must first identify themselves and state whether they represent another person or entity.

*Source: County Code Section 1.004(a).*

**§ 30-1-195 RECORD OF PUBLIC HEARING.**

(A) Each commissioners court meeting is, audio tape recorded.

(B) The audio tape is available for review in the county clerk's office for a period of at least two years from the date of the meeting.

*Source: County Code Section 1.004(b)*

**ARTICLE 9. APPEALS, VARIANCES, SPECIAL EXCEPTIONS, AND ADJUSTMENTS.**

**Division 1. City Appeals.**

**§ 30-1-221 APPLICABILITY.**

This division applies to an appeal to a city board or commission or the **city** council.

*Source: City/County subdivision agreement.*

**§ 30-1-222 STANDING TO APPEAL.**

(A) A person has standing to appeal a decision if

(1) the person is **an** interested party; and

(2) a provision of **this** title identifies the decision as one that may be appealed by that person.

(B) A body holding a public hearing on an appeal shall determine whether a person has standing to appeal the decision.

*Source: City Code Section 25-1-181.*

**§ 30-1-223 INITIATING AN APPEAL.**

A person with standing to appeal may initiate an appeal by filing a notice of appeal with the director not later than:

- (1) the 14th day after the date of the decision of a board or commission, including the land use commission; or
- (2) the 20th day after an administrative decision.

*Source: City Code Section 25-1-182.*

**§ 30-1-224 INFORMATION REQUIRED IN NOTICE OF APPEAL.**

The notice of appeal must be on a form prescribed by the single office and must include:

- (1) the name, address, and telephone number of the appellant;
- (2) the name of the applicant, if the appellant is not the applicant;
- (3) the decision being appealed;
- (4) the date of the decision;
- (5) a description of the appellant's status as an interested party; and
- (6) the reasons the appellant believes the decision does not comply with the requirements of this title.

*Source: City Code Section 25-1-183.*

**§ 30-1-225 NOTICE TO APPLICANT CONCERNING INTERESTED PARTY.**

The single office shall notify an applicant in writing if there is an interested party to an administrative decision.

*Source: City Code Section 25-1-184.*

**§ 30-1-226 NOTICE TO PRESIDING OFFICER AND APPLICANT.**

On receipt of a notice of appeal or an amendment of a notice, the single office shall promptly notify the presiding officer of the body to which the appeal is made and, if the applicant is not the appellant, the applicant.

*Source: City Code Section 25-1-185.*

**§ 30-1-227 MEETING TO RESOLVE ISSUES.**

If requested by an interested party, the single office shall schedule a meeting to discuss and attempt to resolve the issues raised by an appeal of an administrative decision. The single office shall notify all interested parties of a meeting scheduled under this section. All interested parties may attend the meeting.

*Source: City Code Section 25-1-186.*

**§ 30-1-228 DEVELOPMENT NOT PERMITTED DURING APPEAL.**

- (A) An approved plan or permit is suspended on the timely filing of an appeal of the plan or permit.
- (B) Development affected by an appeal may not occur pending the final disposition of the appeal.

*Source: City Code Section 25-1-187.*

**§ 30-1-229 SCHEDULING OF PUBLIC HEARING.**

A public hearing on an appeal shall be scheduled for the first available meeting for which notice of the hearing can be timely provided.

*Source: City Code Section 25-1-188.*

**§ 30-1-230 NOTICE OF PUBLIC HEARING.**

- (A) The single office shall give notice under Section 30-1-153(A) (*Notice Of Public Hearing*) of a public hearing on an appeal to a board or commission.
- (B) The single office shall give notice under Section 30-1-153(B) (*Notice Of Public Hearing*) of a public hearing on an appeal to the council.

*Source: City Code Section 25-1-189.*

**§ 30-1-231 APPELLATE BURDEN.**

The appellant must establish that the decision being appealed is contrary to applicable law or regulations.

*Source: City Code Section 25-1-190.*

**§ 30-1-232 CONDUCT OF PUBLIC HEARING.**

(A) Before opening a hearing, a body hearing an appeal shall decide preliminary issues raised by the parties, including whether to postpone or continue the hearing and whether the appellant has standing to appeal.

(B) A public hearing on an appeal shall proceed in the following order:

- (1) a report from staff,
- (2) a presentation by the appellant;
- (3) comment by persons supporting the appeal;
- (4) comment by persons opposing the appeal; and
- (5) a rebuttal by the appellant.

*Source: City Code Section 25-1-191.*

**§ 30-1-233 POWER TO ACT ON APPEAL.**

A body hearing an appeal may, in accordance with the requirements of this title, exercise the power of the official or body whose decision is appealed. A decision may be upheld, modified, or reversed.

*Source: City Code Section 25-1-192.*

**Division 2. County Appeals.**

**§ 30-1-241 APPLICABILITY.**

This division applies to an appeal to the commissioners court.

*Source: City/ County subdivision agreement.*

**§ 30-1-242 PROCEDURE GENERALLY.**

Appeals to the commissioners court shall be in accordance with County Code Chapter 1 (*Commissioners Court Rules Of Procedure*).

*Source: County Code Chapter 1.*

**Division 3. Variances.**

**§ 30-1-251 APPLICATION FOR A VARIANCE.**

- (A) A person may file **an** application for a variance with the single office for a variance to be granted by the platting board or the council.
- (B) **An** application may include a request for:
  - (1) variances from regulations applicable to the same site; or
  - (2) similar variances on two or more adjacent parcels with similar characteristics.
- (C) The single office may require that the applicant provide information that the single office determines is necessary to evaluate the variance request.

*Source: City Code Section 25-1-211.*

**§ 30-1-252 REPORT.**

For an application for a variance requiring consideration by the platting board, the single office shall prepare and file a report with the platting board not later than the 1<sup>st</sup> day before the public hearing.

*Source: City Code Section 25-1-212.*

**§ 30-1-253 REVIEW BY THE ENVIRONMENTAL BOARD.**

- (A) This section applies to an application for a variance from the requirements of Chapter 30-5, Subchapter A (*Water Quality*).
- (B) The environmental board shall consider **an** application for a variance and forward its recommendation to the land use commission.
- (C) The land use commission shall consider the environmental board's recommendation before acting on a variance.

*Source: City Code Section 25-1-213.*

**§ 30-1-254 PUBLIC HEARING AND NOTICE.**

The single office shall give notice under Section 30-1-153(A) (*Notice Of Public Hearing*) of a public hearing on an application for a variance required to be heard by the land use commission.

*Source: City Code Section 25-1-214.*

**§ 30-1-255 ACTION ON AN APPLICATION.**

- (A) Except as otherwise provided in this chapter, the land use commission shall act on an application for a variance not later than the next meeting after the public hearing is closed.
- (B) The platting board may:
  - (1) approve **an** application for a variance;
  - (2) approve an application for a variance with modifications; or
  - (3) deny **an** application for a variance.
- (C) The platting board may require that a variance be:
  - (1) revocable;
  - (2) effective for a specified time period; or
  - (3) subject to one or more conditions.

*Source: City Code Section 25-1-215.*

**§ 30-1-256 EFFECTIVE DATE OF VARIANCE.**

- (A) Except as provided in Subsection (B), a decision on a variance is effective immediately.
- (B) If a variance is appealable, a decision on the variance is effective either:
  - (1) at the expiration of the time period during which **an** appeal may be filed; or
  - (2) if a notice **of** appeal is filed, when a final decision on the appeal is made.

*Source: City Code Section 25-1-216.*

**§ 30-1-257 EXPIRATION OF VARIANCE.**

**(A)** Except as provided in Subsection (B), a variance expires:

- (1) except as provided in Subsection (A)(2), one year after the effective date of the variance; or
- (2) on the date established as a condition of approval.

**(B)** A variance expires on the date an approved plan or permit expires if:

- (1) an application for approval of a plan or permit is submitted before a variance expires under Subsection (A); or
- (2) the variance is granted in association with the approved plan or permit.

*Source: City Code Section 25-1-217.*

**§ 30-1-258 RESTRICTION ON SIMILAR APPLICATIONS.**

If an application for a variance is denied or a variance is revoked, a person may not file **an** application for the same or a similar variance on the same or a substantially the same site for a period of one year from the date of denial or revocation.

*Source: City Code Section 25-1-218.*

Division 4. Special Exceptions

**§ 30-1-271 EFFECT OF SPECIAL EXCEPTION.**

A special exception allows a person *to* use or develop land in a manner not otherwise permitted by this title.

*Source: City Code Section 25-1-231.*

**§ 30-1-272 APPLICATION FOR A SPECIAL EXCEPTION.**

**(A)** A person claiming a vested right to develop property that becomes subject to the city's zoning or extraterritorial jurisdiction may file an application for a special exception with the single office.

**(B)** An application must be on a form prescribed by the single office and must include:

- (1) the name **and** address of the applicant;

- (2) the address and legal description of the property;
  - (3) if the applicant is not the record owner of the property, proof that the applicant is the owner's agent;
  - (4) the date the property became subject to the city's zoning or extraterritorial jurisdiction;
  - (5) if the property was annexed, the date the council scheduled public hearings on the annexation and the date notice of the public hearings was published in a newspaper of general circulation;
  - (6) if a governmental agency has approved or permitted development of the property in accordance with the claimed vested right, or if an application for an approval or permit is pending:
    - (a) the date the application was filed; and
    - (b) the date the application was approved;
  - (7) evidence that establishes reliance by the applicant on the status quo immediately before the property became subject to the city's zoning or extraterritorial jurisdiction; and
  - (8) evidence of a substantial and irrevocable commitment of resources uniquely suited to the proposed plan of development and which cannot be substantially recovered except by developing the property substantially as proposed.
- (C) The single office may require the applicant to submit additional information that the director determines is necessary to evaluate the vested right claim.

*Source: City Code Section 25-1-232.*

**§ 30-1-273 NOTICE OF APPLICATION.**

The single office shall give notice under Section 30-1-154(A) (*Notice Of Applications And Administrative Decisions*) of an application for a special exception.

*Source: City Code Section 25-1-233.*

**§ 30-1-274 APPROVAL OF A SPECIAL EXCEPTION; APPEAL.**

- (A) The single office may grant or deny a special exception under Subsection (B).
- (B) The single office shall acknowledge and determine the scope of a vested right if the single office determines that:

- (1) the applicant reasonably relied on the status quo immediately before the property became subject to the city's zoning or extraterritorial jurisdiction;
  - (2) the applicant has made a substantial and irrevocable commitment of resources uniquely suited to a proposed plan of development and that cannot be substantially recovered except by developing the property substantially as proposed;
  - (3) the applicant has made a reasonable effort, under the circumstances and considering the stage of development of the property, to accommodate the public interest in enforcement of all applicable provisions of this title; and
  - (4) the proposed use or development, if finished in accordance with an approved special exception, will not endanger the public health, safety, or general welfare.
- (C) The single office may condition approval of a special exception under this section on the applicant's compliance with requirements established by the single office.
- (D) The single office's decision must:
- (1) be in writing;
  - (2) state the findings and conclusions;
  - (3) describe the scope and limitations of the special exception; and
  - (4) describe conditions of approval, if any.
- (E) **An** interested party may appeal the single office's decision under this section to the land use commission.

Source: *City Code Section 25-1-234.*

### **Division 5. Adjustments.**

#### **§ 30-1-291 APPLICATION FOR ADJUSTMENT.**

- (A) **An** application for an adjustment under Chapter 30-5, Subchapter A, Article 12 (*Save Our Springs Initiative*) may be considered only in connection with the review of
- (1) a site plan;

- (2) a subdivision; or
  - (3) other specific development project, or proposal.
- (B) An applicant may file an application for an adjustment with the director.
- (C) An application for an adjustment must be on a form prescribed by the director and must include:
- (1) the names and addresses of the applicant and the owner;
  - (2) the address and legal description of the property;
  - (3) proof that the applicant is either the record owner or the record owner's agent;
  - (4) identification of the section of Chapter 30-5, Subchapter **A**, Article 12 (*Save Our Springs Initiative*) that, as applied to the development project or proposal, the applicant claims violates the United States Constitution, the Texas Constitution, or federal or state statute, and the provisions violated;
  - (5) a statement of the factual basis for applicant's claims;
  - (6) a legal brief supporting applicant's claims; and
  - (7) a description of the adjustment requested, and an explanation of how the adjustment is the minimum required to comply with the conflicting law and provides maximum protection of water quality.

*Source: City Code Section 25-1-251.*

#### **§ 30-1-292 CONSIDERATION OF APPLICATION FOR ADJUSTMENT.**

This section prescribes the order of process for an application for adjustment.

- (1) The city law department shall review an application for adjustment and advise the city manager.
- (2) The city manager shall present the application and the city manager's recommendation to the council.
- (3) The council shall determine whether application of Chapter 30-5, Subchapter **A**, Article 12 (*Save Our Springs Initiative*) to the applicant's development project or proposal violates the United States Constitution, the Texas Constitution, or federal or state statute. **An** affirmative determination requires a three-quarters vote of the city council. If the

council does not make an affirmative determination, the application is denied.

- (4) This subsection applies if the council makes an affirmative determination under Subsection (3).
  - (a) The Watershed Protection and Development Review Department shall review the application and advise the city manager.
  - (b) The city manager shall present the application and the city manager's recommendation to the council at a public hearing.
  - (c) After a public hearing, the city council shall:
    - (i) determine the minimum adjustment required to comply with the conflicting law and provide maximum protection of water quality; and
    - (ii) grant the adjustment

*Source: City Code Section 25-1-252.*

## **ARTICLE 10. SUBDIVISION CONSTRUCTION**

### **Division 1. Applicability.**

#### **§ 30-1-321 APPLICABILITY.**

This article applies to development that occurs under an approved subdivision construction plan.

*Source: City Code Section 25-1-281.*

### **Division 2. Preconstruction Conference.**

#### **§ 30-1-331 PRECONSTRUCTION CONFERENCE REQUIRED.**

- (A) Except as provided in Subsection (C), the owner of a project, or owner representative, shall participate in a preconstruction conference with the single office before starting construction under an approved subdivision construction plan.
- (B) **An** owner, or owner representative, shall request that the single office schedule the preconstruction conference when the owner pays the required inspection fees.

(C) The single office may waive the requirement for a preconstruction conference.

Source: ~~City~~ Code Section 25-1-282.

**§ 30-1-332 NOTICE OF CONFERENCE AND DISTRIBUTION OF PLANS.**

(A) The single office shall provide notice of the conference to the following persons or entities not later than the second day before the conference:

- (1) owner representative;
- (2) consulting engineer;
- (3) contractors;
- (4) affected utilities; and
- (5) appropriate staff.

(B) Before convening a preconstruction conference, the single office shall distribute approved plans for the development to the persons and entities receiving notice of the conference.

Source: City Code Section 25-1-283.

**§ 30-1-333 CONFERENCE PROCEDURE.**

(A) The conference participants shall exchange telephone numbers and addresses at the conference.

(B) The participants shall discuss:

- (1) the sequence of construction;
- (2) start dates and schedule of events;
- (3) erosion and sedimentation controls;
- (4) traffic control barricades;
- (5) site supervision;
- (6) emergency response;
- (7) special conditions or provisions of plans or specifications;
- (8) final acceptance guidelines; and

(9) publishing and distribution of minutes of the conference.

*Source: City Code Section 25-1-284.*

**§ 30-1-334 MINUTES OF CONFERENCE.**

Before construction begins, the owner's consulting engineer shall prepare and distribute minutes of the preconstruction conference. Conference participants may file exceptions to the minutes. The engineer shall distribute copies of exceptions to the conference participants and shall include the exceptions in the inspection file.

*Source: City Code Section 25-1-285.*

**Division 3. Inspections; Completion of Work.**

**§ 30-1-351 DISTRIBUTION OF APPROVED PLANS.**

The single office shall deliver copies of the released subdivision construction plans and approved plan revisions to the appropriate staff for inspection.

*Source: City Code Section 25-1-311.*

**§ 30-1-352 INSPECTION REQUESTS.**

- (A) The central dispatcher shall coordinate contact between a permittee and an inspector.
- (B) A permittee shall contact the central dispatcher to request an inspection.
- (C) The single office may:
  - (1) require that a request be made 48 hours before the date the inspection *is* desired; and
  - (2) specify the manner in which the request is made.
- (D) The central dispatcher shall maintain inspection requests for the single office.

*Source: City Code Section 25-1-286.*

**§ 30-1-353 INSPECTION RECORD CARD.**

- (A) A permittee may not begin work under a permit until an inspection record card is posted on the site.
- (B) The permittee shall post the card in a readily accessible location.
- (C) **An** inspector shall note each inspection on the record card.

- (D) The permittee shall post the record card until a final report is issued indicating completion of the required work.

*Source: City Code Section 25-1-287.*

**§ 30-1-354 INSPECTION OF EROSION AND SEDIMENTATION CONTROLS AND TREE PROTECTION MEASURES.**

- (A) The owner shall request an inspection of erosion and sedimentation controls and tree protection measures after the owner installs the controls and measures.
- (B) The single office shall schedule the inspection. The owner, consulting engineer, and contractor shall attend the inspection.
- (C) During the inspection, the owner shall:
- (1) demonstrate that the erosion and sedimentation controls and tree protection measures comply with the Environmental Criteria Manual; and
  - (2) present a plan to the inspector that includes future erosion and sedimentation controls, drainage, and utility and street layout.
- (D) After two days notice to the owner, the inspector may modify the approved erosion control and construction sequencing if
- (1) the inspector determines that the plans are inadequate;
  - (2) the inspector confirms the determination with the single office; and
  - (3) the single office provides written approval of the modification.
- (E) The inspector may make minor changes to the erosion control and construction sequencing plans without written approval from single office if the modification upgrades erosion controls or reflects construction progress.
- (F) Except as provided in Subsection (G), the owner may not begin construction until the single office determines that the erosion and sedimentation controls and tree protection measures comply with applicable requirements.
- (G) If the single office does not conduct an inspection on or before the fifth day after receiving a request, the owner may proceed with construction.

*Source: City Code Section 25-1-288.*

**§ 30-1-355 REINSPECTION FEE.**

- (A) Except as provided in Subsection (B), the single office may charge a reinspection fee if at the time that an inspector attempts to conduct an inspection, the permittee:
- (1) has not finished the work to be inspected;
  - (2) has not finished corrections previously required by an inspector;
  - (3) has not posted the record inspection card;
  - (4) does not make approved plans readily available to the inspector; or
  - (5) does not provide access to the work on the scheduled inspection date.
- (B) Work that was rejected at the first inspection for failure to comply with a technical code may be reinspected without payment of a reinspection fee.
- (C) If a reinspection fee is due, additional inspections may not be performed until the reinspection fee is paid.

*Source: City Code Section 25-1-289.*

**§ 30-1-356 SUBSTANTIAL COMPLETION NOTICE.**

- (A) Approximately 10 days before work under the subdivision construction plans is finished, the owner shall notify the single office in writing that the work is substantially complete and shall request a report listing the work to be completed.
- (B) On the day that the owner provides notice under Subsection (A), the consulting engineer shall submit a construction summary report to the single office.

*Source: City Code Section 25-1-312.*

**§ 30-1-357 FINAL INSPECTION.**

- (A) Not later than the fourth day after the owner gives written notice that work under a subdivision construction plan is substantially complete, the single office shall:
- (1) review the work; and

- (2) prepare a report identifying work that does not comply with the construction plans and work that must be performed before the accountable official issues a final acceptance letter.
- (B) When the owner finishes the work listed in the report issued under Subsection (A), the single office shall modify the report to reflect completion of the required work.

*Source: City Code Section 25-1-313.*

#### **Division 4. Acceptance.**

### **§ 30-1-371 ACCEPTANCE BY THE CITY OR COUNTY.**

- (A) The single office shall schedule a final acceptance meeting at the site and shall invite the:
- (1) consulting engineer;
  - (2) contractors, as appropriate;
  - (3) affected utilities; and
  - (4) appropriate staff,
- (B) The single office may not issue a final acceptance letter until:
- (1) work identified in the accountable official's report has been completed;
  - (2) the following items have been submitted:
    - (a) construction summary report;
    - (b) consulting engineer's concurrence letter;
    - (c) reproducible plans, certified "as built" by the consulting engineer;
    - (d) if required, one-year warranty bonds;
    - (e) cash or cashier's check for balances due, if any; and
  - (3) if the owner executed a developer contract, the conditions of the contract have been satisfied.
- (C) The single office shall issue an acceptance letter to an owner who meets the requirements of Subsection (B). If the owner has not satisfied all requirements, the single office shall issue a list of requirements that the owner must satisfy.

*Source: City Code Section 25-1-314.*

## **ARTICLE 11. CERTIFICATES OF COMPLIANCE.**

### **§ 30-1-391 CERTIFICATE REQUIRED.**

A person may not use or occupy a structure unless the single office has issued a certificate of compliance for the subdivision infrastructure.

*Source: City Code Section 25-1-361.*

### **§ 30-1-392 ISSUANCE OF CERTIFICATE OF COMPLIANCE.**

The single office shall issue a certificate of compliance if the development has been completed in accordance with the construction plans and other ordinance requirements for subdivision infrastructure.

*Source: City Code Section 25-1-362.*

## **ARTICLE 12. ENFORCEMENT.**

### **Division 1. Compliance Required; Inspection.**

#### **§ 30-1-421 COMPLIANCE WITH TITLE REQUIRED.**

A person shall comply with the requirements of this title.

*Source: City Code Section 25-1-391*

#### **§ 30-1-422 INSPECTION.**

- (A) A permit holder must, as a condition of the permit, to allow city or county inspectors to enter and inspect the land or premises that is the subject of the permit.
- (B) **An** applicant for an approval under this title shall agree in writing to allow city and county inspectors to enter and inspect the land or premises that is the subject of the application during approval and development.
- (C) Entry and inspection under this section must be at a reasonable time for the purpose of investigating or enforcing the requirements of this title.

- (D) If the premises are occupied, the city or county inspector shall present the inspector's credentials and request entry. If the premises are unoccupied, the inspector shall attempt to contact a responsible person and request entry.

*Source: City Code Section 25-1-392.*

**Division 2. Suspension And Revocation.**

**§ 30-1-431 SUSPENSION OF APPROVED SUBDIVISION CONSTRUCTION PLAN.**

- (A) The single office may suspend an approved subdivision construction plan if the single office determines that:
- (1) the subdivision construction plan was approved in error; or
  - (2) the development does not comply with this title.
- (B) A suspension is effective until the single office determines that the applicant has complied with the requirements of this title.

*Source: ~~City~~ Code Section 25-1-412.*

**§ 30-1-432 SUSPENSION AND REVOCATION OF A VARIANCE OR SPECIAL EXCEPTION.**

- (A) If the single office determines that a person is not in compliance with a requirement of a variance or special exception, the single office may suspend the variance or special exception pending compliance.
- (B) The body granting the variance or special exception shall hold a public hearing and determine whether the person is in compliance with the requirements of the variance or special exception.
- (C) The land use commission shall hold the public hearing not later than the 45th day after notification of the suspension under Section 30-1-435 (*Notice Of Suspension Or Revocation*). The single office shall give notice under Section 30-1-153(A) (*Notice Of Public Hearing*) of the public hearing.
- (D) If the body determines that the person is not in compliance with a requirement of the variance or special exception, the body may revoke the variance or special exception or take other action to obtain compliance.
- (E) The body's decision to revoke a variance or special exception is effective immediately.

*Source: City Code Section 25-1-415.*

**§ 30-1-433 REVOCATION AFTER SUSPENSION.**

The single office may immediately revoke a person's approved subdivision construction plan that has been suspended if the single office determines that the person:

- (1) did not comply in a reasonable time with the requirements of this title for which the suspension was ordered; or
- (2) during the suspension, did not comply with other requirements of this title.

*Source: City Code Section 25-1-416.*

**§ 30-1-434 NOTICE OF INTENT TO SUSPEND OR REVOKE.**

- (A) The single office may give notice to the person affected of the single office's intent to suspend or revoke an approved subdivision construction plan under this division.
- (B) The notice may specify a reasonable time for compliance with this title. If a time for compliance is specified, the single office may not suspend or revoke before the time for compliance has expired.

*Source: City Code Section 25-1-417.*

**§ 30-1-435 NOTICE OF SUSPENSION OR REVOCATION.**

The single office shall give notice by certified mail, return receipt requested, under Section 30-1-154(B) (*Notice Of Applications And Administrative Decisions*) of a suspension or revocation by the official under this division.

*Source: City Code Section 25-1-418.*

**Division 3. Orders.**

**§ 30-1-451 STOP WORK ORDER.**

- (A) If the single office determines that a person required to obtain a subdivision construction plan has not complied with a requirement of this title, the single office may order the person to stop the development of or transportation of construction material to the site until the person complies with the requirements of this title.
- (B) While a stop work order is in effect:

- (1) a city or county inspection may not be performed, and work requiring an inspection may not be approved; and
  - (2) a person may not connect a utility at the site.
- (C) If a stop work order is based on a failed inspection, a person may not further develop the site until the development passes a reinspection.
- (D) If a stop work order is based on a health or safety hazard, a person may not further develop the site until the director determines that the development complies with the requirements of this title.
- (E) A city or county employee shall post a stop work order on the site and mail a copy of the order to the record owner.

*Source: City Code Section 25-1-441.*

#### **Division 4. Appeal; Criminal Enforcement.**

#### **§ 30-1-461 APPEAL.**

- (A) A person may appeal a stop work order, revocation, or suspension issued under this article by giving written notice to the single office not later than the third day after:
- (1) the stop work order is posted; or
  - (2) the person receives notice of the revocation or suspension
- (B) The notice of appeal must contain:
- (1) the name and address of the appellant;
  - (2) a statement of facts;
  - (3) the decision being appealed, and
  - (4) the reasons the decision should be set aside
- (C) The single office shall hear the appeal not later than the third working day after the appeal is filed. The appellant, the appellant's expert, and the department may offer testimony to the single office.
- (D) The single office shall affirm or reverse the decision not later than the second working day after the hearing. The single office shall give written notice of the decision and a statement of the reasons for the decision to the appellant.

- (E) A stop work order, suspension, or revocation remains in effect during the pendency of an appeal under this section.

Source: ~~City~~ Code Section 25-1-461.

**§ 30-1-462 CRIMINAL ENFORCEMENT.**

- (A) Criminal penalties for violations of this title are prescribed by Title 1 (*General Provisions*) of the City Code and Local Government Code Chapter 232 (*County Regulation Of Subdivisions*).
- (B) A separate offense is committed each day that a violation of this title continues.

Source: ~~City~~ Code Section 25-1-462.

**ARTICLE 13. AMENDMENT PROCEDURE.**

**§ 30-1-481 INITIATION OF AMENDMENT.**

- (A) Other than the city council, only the planning commission may initiate an amendment to the regulations in this title on behalf of the city.
- (B) Only the commissioners court may initiate an amendment to the regulations in this title on behalf of the county.

Source: ~~City~~ Code Section 25-1-501.

**§ 30-1-482 AMENDMENT AND REVIEW BY CITY.**

- (A) This section prescribes the city's procedure for amending the regulations in this title.
- (B) Except as provided in Section 30-1-483 (*Joint Action Required*), the council may amend this title after a public hearing. The council must receive a recommendation required by Subsection (C) before opening a public hearing or acting on an amendment.
- (C) Planning commission review of a proposed amendment of this title is required. The planning commission must hold a public hearing on the proposed amendment before forwarding its recommendation to the council.
- (D) Notice of a public hearing required by this section shall be provided in accordance with Section 30-1-153(C) (*Notice Of Public Hearing*).

Map Legend	Area Name	Case Number	LP Type	Acreage Annexed	Acreage Remaining to be Converted	Ordinance Number	Effective Date
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**LP Development Agreement / Municipal Utility District**

Development Agreement	Portions of Davenport West PUD	C7a-88-007 A	PZ	247.00	109.00	881215-T	12/25/1988
MUD	Moore's Crossing	C7a-95-013	PZ/HS	799.09	799.09	SB1396	1/1/1996
Development Agreement	Motorola	C7L-98-002	PZ/HS	446.00	249.00	980827-C	9/7/1998
MUD	Galloway Tract	C7L-98-003	PZ/HS	19.00	19.00	990204-G	2/15/1999
Development Agreement	Balfour Tract	C7L-99-001	PZ/HS	588.00	588.00	990722-08	8/2/1999
Development Agreement	Edwards Crossing	C7L-00-001	PUHS	298.00	298.00	000323-89	4/3/2000
Development Agreement	Interport Tract	C7L-00-003	PZ	652.00	652.00	000907-50	9/18/2000
Development Agreement	Wildhorse Ranch Tract	C7L-01-002	PZ	1,957.00	1,957.00	020214-42	2/25/2002
Development Agreement	Boston Ln SW Parkway	C7A-86-008	PZ	474.00	474.00	860717-V	7/27/1986
Development Agreement	The Uplands	C7AR-87-008	PZ	2,684.00	2684.00	871224-A	12/31/1987

MAP	Walnut Creek	C7a-05-002	PUPZHS	315.00	315.00		
MAP	Springfield Phase C	C7a-05-003		0.0	55.91		
MAP	Pearce Lane Ross Road area	C7a-06-001		0.0	277.0		

**Preserve / Lake Austin Shoreline / Fully Platted/Built**

Lake Austin Shoreline	Lake Austin Shoreline	C7A-82-002	PZHS	2240.00		820506-D	5/6/1982
Preserve	Barton Creek Greenbelt	C7A-83-005	PZHS	23.00		840202-B,C,D	2/2/1984
Platted / Built	IH 35 North / Four Seasons	C7A-83-011	PZHS	1402.00		840913-E/F	9/13/1984
Platted / Built	Howard Lane	C7A-84-020A	PZHS	2097.00		841115-CCC	11/15/1984
Platted / Built	NW Area Upper Bull Creek	C7A-84-021	PZHS	9894.00		841115-DDD	11/15/1984
Platted / Built	US 290 & Hwy 71	C7A-85-010	PZ	1113.60		860116-G	1/26/1986
Preserve / Platted / Built	NW Area: Tract I	C7A-85-034aA	PZ	5747.20		860109-C	1/19/1986
Platted / Built	NW Area: Tract II	C7A-85-034ba	PZ	11,155.20		851219-P	12/29/1985

**Other Limited Purpose Area**

	Loop 360 Corridor	C7A-80-001	PZHS	1,006.24		800522-A	6/1/1980
	Loop 360 Corridor	C7A-82-003A	PZHS	527.92		831027-C/B	10/27/1983
	Loop 360 Corridor	C7A-83-002	PZHS	77.90		841115-II KK	11/15/1984
	Loop 360 Corridor	C7A-83-007	PZHS	1,303.00		830721-C	7/31/1983
	RM 620	C7A-84-001	PZHS	706.00		840503-G	5/3/1984
	Hwy 71	C7A-84-008	PZHS	1510.00		841115-OO	11/15/1984
	RM 620	C7a-84-010a	PZHS	559.00		841115-QQ	11/15/1984

*Source: City Code Section 25-1-502.*

**§ 30-1-483 AMENDMENT AND REVIEW BY COUNTY.**

- (A) This section prescribes the county's procedure for amending the regulations in this title.
- (B) The commissioners court is governed by the procedures prescribed by County Code Chapter 1 (*Commissioners Court Rules Of Procedure*).

*Source: County Code Chapter 1.*

**§30-1-484 JOINT ACTION REQUIRED.**

**An** amendment to this title is effective only after it is enacted by both the city council and the commissioners court.

*Source: City/County subdivision agreement.*

## CHAPTER 30-2. SUBDIVISION REQUIREMENTS.

### ARTICLE 1. SUBDIVISION COMPLIANCE.

#### § 30-2-1 COMPLIANCE.

Except as otherwise provided in this article, a-subdivision must comply with the requirements of this title.

*Source: City Code Section 25-4-1.*

#### § 30-2-2 EXCEPTION FROM CITY PLATTING REQUIREMENTS.

- (A) The director may except a parcel of land from the city's requirement to plat if the director determines that the parcel existed in its current configuration before becoming subject to the city's jurisdiction over subdivision of land.
- (B) The director may except a parcel of land from the city's requirement to plat if the director determines that the parcel:
  - (1) contains a health or safety hazard associated with a private sewage facility or private water well or other conditions that adversely affect public health, safety or welfare;
  - (2) existed in its current configuration on August 8, 1992;
  - (3) was served by a private sewage facility or private water well on August 8, 1992;
  - (4) is located on an existing street; and
  - (5) complies with the requirements of this title for roadway frontage.
- (C) The director may except a parcel of land from the city's requirement to plat if the director determines that the parcel:
  - (1) is five acres or less;
  - (2) existed in its current configuration on August 31, 1987;
  - (3) was receiving utility service that was authorized under the rules of the utility provider on August 31, 1987;
  - (4) is located on an existing street; and:
  - (5) complies with the requirements of this title for roadway frontage.

- (D) An applicant shall demonstrate to the director that a parcel is excepted under this section from the requirement to plat. **An** applicant shall provide the director with the current deed to the property, an adequate legal description, and proof of ownership.
- (E) If the director excepts a parcel from the city's requirement to plat, the director shall certify the parcel's exception.
- (F) An approval to extend or change utility service to a parcel is not a certification under this section or an approval of a plat.

*Source: City Code Section 25-4-2.*

**§ 30-2-3 TEMPORARY EXEMPTION FROM CITY PLATTING REQUIREMENTS.**

- (A) The director may temporarily exempt a parcel of land from the city's requirement to plat if the director determines that the sole use of the parcel is as a qualified community garden described in City Code Section 11-4-1 (*Qualified Community Gardens*). **An** applicant shall provide the director with the information and documentation necessary to establish the exemption.
- (B) If the sole use of an exempted parcel changes from a qualified community garden, an exemption under this section expires.
- (C) A parcel temporarily exempted under this section must be platted before it may be used for a purpose other than as a qualified community garden.

*Source: City Code Section 25-4-3.*

**§ 30-2-4 COUNTY EXCEPTIONS TO PLATTING REQUIREMENT.**

- (A) The county does not require a plat for:
  - (1) a tract of land that existed in its current configuration before September 1, 1983;
  - (2) a manufactured home rental community, as defined by Local Government Code Section 232.007, if the development complies with the minimum infrastructure requirements of County Code Section 82.301(d);
  - (3) a judicial partition under a final judgment;

- (4) an acquisition by an entity with the power of eminent domain by a condemnation or dedication or by contract and conveyance instead of condemnation;
- (5) a subdivision that does not lay out a street, alley, square, park, or other area for public use or for the use of a purchaser or owner of a lot adjacent to one of those areas, if all the subdivided land:
  - (a) is primarily for agricultural use, as defined by Texas Constitution Article III, Section 1-d, or primarily for farm, ranch, wildlife management, or timber production use, as defined by Texas Constitution Article III, Section 1-d-1;
  - (b) is divided into four or fewer lots and is to be transferred to a person who is related to the owner within the third degree of consanguinity or affinity, as determined by Government Code Chapter 573;
  - (c) consists of lots of more than 10 acres in area;
  - (d) is sold to veterans through the Veteran's Land Board program;
  - (e) belongs to the state or a state agency, board, or commission, or the permanent school fund or other dedicated state fund;
  - (f) is retained in part by the owner, and transferred in part to a person who will further subdivide the tract in accordance with requirements of this title; or
  - (g) is transferred to a person who owned an undivided interest in the original tract, and a plat is filed before further development of any part of the tract; or
- (6) property that is owned by a political subdivision of the state and located in a floodplain, and the lots are sold to adjoining landowners.

(B) If the executive manager determines that a division of land is excepted from platting under Subsection (A), the executive manager shall, at the request of the land owner, issue a letter to the owner acknowledging the exception. The executive manager may require that the owner provide certification or documentation that the requirements of Subsection (A) are satisfied.

*Source: County Code Section 82.105.*

## **ARTICLE 2. SUBDIVISION PROCEDURE.**

### **Division 1. Procedure Generally.**

#### **§ 30-2-31 PLANNING COMMISSION AND ZONING AND PLATTING COMMISSION RULES.**

The planning commission and the zoning and platting commission may each adopt rules of procedure. Adopted rules are effective when filed with the city clerk.

*Source: City Code Section 25-3-31.*

#### **§ 30-2-32 CITY ACTION WITHIN 30 DAYS.**

- (A) The requirements of this section supersede any contrary provisions of this title relating to action by the land use commission or council.
- (B) The single office shall schedule an application for preliminary plan or plat approval for consideration by the land use commission or council not later than the 30th day after the application is filed.
- (C) The land use commission or council shall act on an application for preliminary plan or plat approval not later than the 30th day after the application is filed.
- (D) The council shall act on an appeal of land use commission action on an environmental variance that is associated with a preliminary plan not later than the 30th day after the land use commission action.

*Source: City Code Section 25-4-32.*

#### **§ 30-2-33 COUNTY ACTION WITHIN 60 DAYS.**

- (A) The requirements of this section supersede any contrary provisions of this title relating to action by the commissioners court.
- (B) The single office shall approve or disapprove an application for preliminary plan or final plat approval and notify the applicant of the determination not later than the 45<sup>th</sup> day after an application is filed.
- (C) If the single office disapproves the application, the single office shall notify the applicant in writing of the disapproval and provide a written list of the reasons for disapproval.
- (D) An applicant may appeal a disapproval by the single office to the commissioners court. To appeal, the applicant must submit to the single office

a written request to place the application on the commissioners court agenda not later than the second day after the applicant receives the notice of disapproval.

- (E) Except as provided in Subsections (F), (G); and (H), the single office shall schedule an application for final action by the commissioners court not later than the 60<sup>th</sup> day after an application is filed, if
  - (1) the single office approves an application; or
  - (2) an applicant appeals a disapproval by the single office
- (F) Not later than the 20<sup>th</sup> day after an application is filed, the single office may extend the time period prescribed by Subsection (E) by up to 60 additional days if the single office determines that a takings impact assessment is required by Government Code Chapter 2007.
- (G) The applicant and the single office may agree in writing to extend the time period prescribed by Subsection (E).
- (H) The time period prescribed by Subsection (E) does not apply if a decision on the application is not wholly within the control of the commissioners court or the single office.
- (I) If an application is not disapproved within a time period prescribed by Subsections (E) through (H), as applicable, the application is approved and the single office shall refund to the applicant one-half of the application fee received by the county.

*Source: County Code Section 82.201(b).*

**§ 30-2-34 ORIGINAL TRACT REQUIREMENT.**

- (A) **An** original tract is a tract that:
  - (1) is a legal lot or tract; or
  - (2) was a legal lot or tract before being subdivided in violation of ordinance requirements.
- (B) **An** applicant shall include all land in the 'original tract in an application for preliminary plan or plat approval.
- (C) The commissioners court and the land use commission, acting jointly, may waive the requirement of Subsection (B) after determining that the requirement is impractical or imposes an unreasonable hardship on the applicant.

- (D) The single office may waive the requirement of Subsection (B) if the single office determines that:
- (1) subdividing only a portion of the original tract will not substantially impair the orderly planning of roads, utilities, drainage, and other public facilities;
  - (2) the portion of the original tract **contiguous** to the area to be subdivided has direct access to a public street, or the applicant has provided access to a public street by dedicating right-of-way at least 50 feet wide;
  - (3) a reasonable use of the balance of the original tract is possible; and
  - (4) the applicant has mailed, by certified mail, to all owners of land that is a portion of the original tract and contiguous to the land included in the application a request that each owner provide written confirmation to the director that:
    - (a) the owner's land is not a legal lot or tract; and
    - (b) the owner must plat the land before the city may approve a development permit or a utility company may provide initial or additional service.
- (E) If the single office does not receive the written confirmations requested under Subsection (D)(4) by the 10th day after the requests were mailed, the single office shall mail, by certified mail, to each owner a notice containing the statements described in Subsections (D)(4)(a) and (b).
- (F) In making a determination under Subsection (D)(3) that a reasonable use of the balance of the original tract is possible, the single office may require that the applicant provide a schematic land plan of the balance of the original tract. The single office may not require that the applicant provide detailed engineering information.
- (G) **An** owner of property within the original tract may appeal the single office's determination under this section to the commissioners court and the land use commission.
- (H) An applicant who satisfies the requirement of Subsection (D)(2) by dedicating right-of-way to provide access to a public street is not required to construct improvements within the right-of-way.
- (I) **As** a condition of a waiver to Subsection (B), the county may require the subdivider to enter into a phasing agreement to provide for the orderly development of the property.

- (1) A subdivider must obtain approval of a phasing agreement by the commissioners court not later than the date the first final plat is approved.
- (2) The single office may make a recommendation on the phasing agreement.
- (3) The commissioners court may approve a phasing agreement if the commissioners court determines:
  - (a) the phasing agreement accommodates the development and protects the public interest;
  - (b) the dedication of roads, drainage facilities, parkland, and other infrastructure and the posting of construction security is roughly proportional to the impact of the development of the property; and
  - (c) the phasing agreement has been approved by the county attorney.

*Source: City Code Section 25-4-33; County Code Section 82.201(b)(4) – (8).*

**§ 30-2-35 CITY BOARD AND COMMISSION REVIEW OF REQUESTS ASSOCIATED WITH SUBDIVISION APPLICATION.**

- (A) The director shall determine whether board or commission review of a request associated with an application for preliminary plan or plat approval is required under this section. The director shall schedule an associated request for board or commission review on the earliest available date after expiration of the initial review period for the application for preliminary plan or plat approval.
- (B) The following board or commission must review an associated request before the land use commission may consider the application or the associated request:
  - (1) the urban transportation commission and the environmental board shall review a request for an amendment to the transportation plan;
  - (2) the water and wastewater commission and, if requested by the city council, the environmental board shall review a request for an amendment to the city's water or wastewater service area boundary; and
  - (3) the water and wastewater commission shall review a request for city cost participation in construction of water or wastewater facilities.

*Source: City Code Section 25-4-34.*

§ 30-2-36 VARIANCE FILING AND CONSIDERATION.

- (A) **An** applicant shall file an application for a variance from a subdivision requirement when the applicant submits an application for preliminary plan approval, or if a preliminary plan is not required, when the applicant files an application for final plat approval.
- (B) **An** applicant may file an application for a variance after filing an application for approval of a preliminary plan or plat if the need for the variance becomes apparent after staff review.
- (C) **An** applicant may not file an application for a variance less than seven days before a deadline for placing the application for preliminary plan or plat approval on the agenda of a board or commission.
- (D) The platting board shall concurrently consider an application for a variance over which it has discretionary authority under Section 30-1-92 (*Discretionary Authority*) and an application for preliminary plan or plat approval, unless the applicant requests a separate public hearing on the application for a variance.
- (E) If a separate public hearing on a variance is to be held by the land use commission:
  - (1) the applicant must pay the required notice fee; and
  - (2) the director shall schedule a separate public hearing on an application for a variance for the first available meeting of the land use commission after board or commission review of the application for a variance is complete.

*Source: City Code Section 25-1-35.*

§ 30-2-37 VARIANCE DETERMINATION.

- (A) The platting board shall grant a variance **from** a requirement of Article 3 (*Platting Requirements*) if the platting board determines that enforcement of the requirement will make subdivision of a tract of land impractical and deny the owner all reasonable use of the land.
- (B) For a mass housing project, a planned unit development, or similar neighborhood unit, the platting board may grant a variance from a requirement of Article 3 (*Platting Requirements*) if the platting board determines that planned development will provide light and air, vehicular and pedestrian circulation, and recreational facilities that are at least equal to the requirements of this title. **An** applicant must provide the platting board with a written report documenting compliance with this subsection.

- (C) The platting board may grant a variance from a requirement of Article 3 (*Platting Requirements*) if the platting board determines that the variance protects the public interest and complies with sound engineering principles and practices.

*Source: City Code Section 25-4-36; County Code Section 82.201(f).*

**§ 30-2-38 INFRASTRUCTURE CONSTRUCTION OR FISCAL SECURITY FOR PLAT APPROVAL.**

- (A) Before the land use commission, council, or commissioners court may approve a plat, the subdivider shall:
- (1) obtain final approval of subdivision construction plans; post fiscal as required by the commissioners court for restoration of disturbed areas, boundary streets, and sidewalks; and construct the streets, utilities, and drainage facilities in compliance with the requirements of this title; or
  - (2) file an application for approval of subdivision construction plans and provide fiscal security under Section 30-1-132 (*Fiscal Security*) for subdivision improvements.
- (B) Fiscal security provided under this section may be used by the city or county, as appropriate, to construct the subdivision improvements.

*Source: City Code Section 25-4-37; County Code Section 82.401*

**§ 30-2-39 ACCEPTANCE OF OFFERED DEDICATION.**

- (A) Approval of a plat is not an acceptance by the city or county of an offered dedication. Disapproval or denial of a plat is a refusal by the city or county to accept an offered dedication shown on a plat.
- (B) The city or county may accept an offered dedication only by the action of an authorized official.
- (C) The commissioners **court** may accept an offered dedication of a street by issuing a certificate of acceptance.
- (D) A street may not be accepted unless it is constructed in accordance with the applicable requirements and with the required utilities and drainage facilities installed. Entry, use, or improvement by the city or county, as applicable, under a fiscal security agreement is not an acceptance of an offered dedication.

- (E) Except as provided in a fiscal security agreement, an officer or employee of the city or county may not enter, use, or improve a street unless the street has been accepted by the city or county, as applicable.

*Source: City Code Section 25-4-38.*

## **Division 2. Preliminary Plans.**

### **§ 30-2-51: PRELIMINARY PLAN REQUIREMENT.**

- (A) A preliminary plan must be approved before a plat may be approved, except as provided in Subsection (B).
- (B) A plat may be approved without a preliminary plan if each lot abuts an existing dedicated public street and the single office determines that:
  - (1) a new street or an extension of a street is not necessary to provide adequate traffic circulation;
  - (2) the applicant has dedicated additional right of way necessary to provide adequate street width for an existing street abutting a lot; and
  - (3) drainage facilities are not necessary to prevent flooding, or if necessary, the applicant has arranged for the construction of drainage facilities.

*Source: City Code Section 25-4-51; County Code Sections 82.201(b)(2) – (8) and 82.203(a).*

### **§30-2-52 MASTER DEVELOPMENT PLAN.**

- (A) If a preliminary plan is part of an applicant's plan for a larger development, the applicant shall file a master development plan with the single office when the first application for preliminary plan approval is filed.
- (E) A master development plan may be in schematic form, must include the applicant's entire development, and must provide for the safe, healthful, and orderly extension of roads, utilities, drainage, and other public facilities.

*Source: City Code Section 25-4-52; County Code Section 82.201(b)(9).*

### **§ 30-2-53 CONCURRENT CITY APPLICATIONS.**

- (A) **An** applicant shall file the following city applications, if required, concurrently with an application for preliminary plan approval:
  - (1) zoning or rezoning to a planned unit development district;

- (2) amendment to the comprehensive plan;
  - (3) amendment to the city's water and wastewater service area boundary;
  - (4) city cost participation in facilities associated with the preliminary plan;
  - (5) waiver or variance from the requirements for dedication or reservation of right-of-way; and
  - (6) extension of water or wastewater service.
- (B) Council approval is required for a preliminary plan that requires a concurrent application described in Subsection (A)(1), (2), (3), (4), or (5).

*Source: City Code Section 25-4-53.*

**§ 30-2-54 PREVIOUSLY APPROVED PRELIMINARY PLAN.**

- (A) Approval of a preliminary plan supersedes a previously approved preliminary plan for the same land.
- (B) An applicant may not include land from a previously approved preliminary plan in a subsequent application for approval of a preliminary plan unless all the land, except land contained in an approved plat, is included in the application.
- (C) The single office may waive the requirement of Subsection (B) if the single office determines that including only a portion of the previously approved preliminary plan does not substantially impair the orderly planning of roads, utilities, drainage, or other public facilities.
- (D) **An** interested party may appeal the single office decision under Subsection (C) to the land use commission.

*Source: City Code Section 25-4-54.*

**§ 30-2-55 NOTICE.**

- (A) The single office shall give notice under Section 30-1-154(A) (*Notice Of Applications And Administrative Decisions*) of the filing of an application for preliminary plan approval.
- (B) The single office shall give notice under Section 30-1-153(A) (*Notice Of Public Hearing*) of a public hearing on land use commission consideration of an application for preliminary plan approval. Notice is not required if the single office has recommended disapproval of a preliminary plan.

- (C) The single office shall give notice under Section 30-1-153(B) *Notice Of Public Hearing;*) of a public hearing of council consideration of an application for preliminary plan approval, except that publication of the notice is not required.
- (D) The single office shall give additional notice as required by state law or the county code.

*Source: City Code Section 25-4-55.*

**§ 30-2-56 STAFF REVIEW OF APPLICATION FOR PRELIMINARY PLAN APPROVAL.**

- (A) The single office shall promptly deliver a copy of an application for preliminary plan approval to each reviewing department or agency.
- (B) A reviewing department or agency shall prepare and deliver to the single office a written report of .comments and recommendations regarding an application for preliminary plan approval before the expiration of the staff review period described in this section.
- (C) Initial staff review period for an application for preliminary plan approval is as follows:

<u>Size of preliminary plan</u>	<u>Staff review period</u>
Less than 60 acres	21 days
60 acres to 250 acres	28 days
More than 250 acres	35 days

- (D) **An** applicant may file with the single office an update to an application for preliminary plan approval not later than the 180th day after the application was filed.
- (E) The staff review period of an update to an application for preliminary plan approval is **14** days.

*Source: City Code Section 25-4-56.*

**§ 30-2-57 LAND USE COMMISSION OR COMMISSIONERS COURT ACTION ON PRELIMINARY PLAN.**

- (A) The single office shall schedule an application for preliminary plan approval for public hearing and consideration by the land use commission or

commissioners court on the first available meeting after the single office determines that:

- (1) staff review and board or commission review is complete;
  - (2) if applicable, the applicant has obtained a commitment for water or wastewater service from the entity providing the service; and
  - (3) for land located in the zoning jurisdiction, the land is zoned for the uses proposed.
- (B) The commissioners court shall approve an application for preliminary plan approval that complies with the requirements of this title.
- (C) Except as provided in Subsection (D), the land use commission shall approve an application for preliminary plan approval that complies with the comprehensive plan and the requirements of this title.
- (D) If an application for preliminary plan approval was filed concurrently with an application described in Subsection 30-2-53(A)(1), (2), (3), (4), or (5) (*Concurrent Applications*), the land use commission shall recommend approval or disapproval of the preliminary plan and the concurrent application to council.

*Source: City Code Section 25-4-57.*

**§ 30-2-58 COUNCIL ACTION ON PRELIMINARY PLAN.**

- (A) If a concurrent application described in Subsection 30-2-53(A)(1), (2), (3), (4); or (5) (*Concurrent Applications*) was filed with a preliminary plan, the council shall consider and act on the preliminary plan and the concurrent application after receiving a recommendation from the land use commission.
- (B) The land use commission's decision on an application for preliminary plan approval that is connected with a request for a variance from an environmental regulation may be reviewed by council if the land use commission's decision on the variance is appealed to the council.
- (C) The council shall approve a proposed preliminary plan that complies with the comprehensive plan and the requirements of this title.

*Source: City Code Section 25-4-58.*

**§ 30-2-59 EFFECT OF PRELIMINARY PLAN APPROVAL.**

Approval of a preliminary plan establishes a mutual commitment on behalf of the city or county and the applicant to:

- (1) the subdivision layout for plat approval; including the location and width of proposed streets, lots, blocks, and easements shown on the preliminary plan; and
- (2) the availability of utilities to serve the subdivided land to the extent shown on the preliminary plan.

*Source: City Code Section 25-4-59.*

**§ 30-2-60 DENIAL OF PRELIMINARY PLAN.**

The single office shall deny an application for preliminary plan approval that does not comply with the criteria for approval on the 180th day after the application is filed, unless the applicant has submitted a written request to the single office for review of the application by the land use commission and commissioners court. If the applicant submits a request for review by the land use commission and commissioners court, the single office shall schedule the application for consideration by the land use commission and the commissioners court, and the land use commission and the commissioners court shall each determine whether the preliminary plan satisfies the criteria for approval.

*Source: City Code Section 25-4-60.*

**§ 30-2-61 CHANGES TO AN APPROVED PRELIMINARY PLAN.**

- (A) The owners of all land within an approved preliminary plan that is not included in an approved final plat and that is affected by a proposed change must request the change.
- (B) Except as provided in Subsections (C) and (D), land use commission and commissioners court approval is required for a change to an approved preliminary plan. An applicant must file a new application if a change requires land use commission or commissioners court approval.
- (C) The single office may approve a minor deviation from an approved preliminary plan if the single office determines that the minor deviation complies with the requirements of this subsection. An applicant shall identify the proposed minor deviation on a copy of the preliminary plan submitted to the single office. A formal application is not required.

(1) A minor deviation may not:

- (a) remove a property restriction or subdivision note;
- (b) modify a waiver or variance;
- (c) change an easement, except with the director's approval;
- (d) increase impervious cover;
- (e) modify a conservation easement, common area, green space, or other open space shown on the preliminary plan;
- (f) affect property outside the proposed plat;
- (g) increase the number of lots;
- (h) change the use of a lot; or
- (i) change the basic street layout,

(2) Except as provided in Subsection (C)(1), a minor deviation may:

- (a) change lot size or configuration;
- (b) change street width or, alignment; or
- (c) change a utility or access easement.

(D) The single office may approve a minor revision to an approved preliminary plan if the single office determines that the minor revision complies with the requirements of this subsection. **An** applicant shall request a minor revision in **an** application submitted to the single office.

(1) A minor revision may not:

- (a) remove a property restriction or subdivision note;
- (b) modify a waiver or variance;
- (c) change an easement, except with the director's approval;
- (d) increase impervious cover;
- (e) modify a conservation easement, common area, green space, or other open space shown on the preliminary plan;
- (f) affect property outside the preliminary plan; or

- (g) increase the number of dwelling units.
- (2) Except as provided in Subsection (D)(1), a minor revision may:
  - (a) include a minor deviation;
  - (b) change the street layout;
  - (c) increase in the number of lots; or
  - (d) modify a subdivision to accommodate a change in use resulting from rezoning or land acquisition through eminent domain.
- (3) The single office may determine that other changes similar in scope and effect to those described in Subsection (D)(2) are minor revisions.
- (E) The single office shall provide the land use commission and the commissioners court with an approved 'minor deviation or minor revision before the land use commission or commissioners court considers approval of the plat.

*Source: City Code Section 25-4-61.*

**§ 30-2-62 EXPIRATION OF APPROVED PRELIMINARY PLAN.**

- (A) In this section, the "appropriate official" is:
  - (1) in a near-term annexation area, the director;
  - (2) outside a near-term annexation area:
    - (a) in the desired development zone, the executive manager; and
    - (b) in the drinking water protection zone, the single office.
- (B) Except as provided in Subsection (B), an approved preliminary plan expires:
  - (1) in the drinking water protection zone, four years after the date of its approval; or
  - (2) in the desired development zone, ten years after the date of its approval.
- (C) The appropriate official may extend the expiration date of an approved preliminary plan:
  - (1) twice for periods of not more than two years each, if the appropriate official determines that, since the date of the plan's approval, the plan

has not significantly changed and the applicable regulations have not significantly changed; or

- (2) for a period determined by the appropriate official if the applicant agrees with the appropriate official to complete the subdivision infrastructure in increments or phases that correspond to the increments or phases of the development.

*Source: City Code Section 25-4-62 and City/County Agreement On Subdivision Platting.*

### **Division 3. Final Plats.**

#### **§ 30-2-81 LAND INCLUDED IN PLAT.**

An application for approval of a plat may include all or a portion of the land included in an approved preliminary plan

*Source: City Code Section 25-4-81.*

#### **§ 30-2-82 REVIEW OF APPLICATION FOR PLAT APPROVAL; EXPIRATION.**

- (A) The single office shall promptly deliver a copy of an application for plat approval to each reviewing department or agency.
- (B) A reviewing department or agency shall prepare and deliver to the single office a written report of comments and recommendations regarding an application for plat approval not later than the 21st day after the application is filed.
- (C) The single office shall determine whether **an** application for plat approval complies with the criteria for approval and give notice under Section 30-1-154(B) (*Notice Of Applications And Administrative Decisions*) of the determination not later than the 28th day after the application is filed. If the single office recommends disapproval, the notice shall state the reasons for the recommendation.
- (D) **An** applicant may file with the single office an update to an application for plat approval not later than the 180th day after the application is filed.
- (E) The single office shall determine whether an update to an application for plat approval complies with the criteria for approval and give notice under Section 30-1-154(B) (*Notice Of Applications And Administrative Decisions*) of the determination not later than the 14th day after the update is filed. If the single office recommends disapproval, the notice shall state the reasons for the recommendation.

- (F) **An** application for plat approval expires on the 180th day after filing if the single office determines that the application does not comply with the criteria for approval, unless the applicant has submitted a written request to the single office for review of the application by the land use commission and the commissioners court. If the applicant requests review by the land use commission and the commissioners court, the land use commission and the commissioners court shall each determine whether the application complies with the criteria for approval and approve or deny the application.

*Source: City Code Section 25-4-82.*

**§ 30-2-83 SCHEDULING OF APPLICATION FOR PLAT APPROVAL;  
EXPIRATION.**

- (A) The single office shall schedule an application for plat approval for consideration by the land use commission, council, or commissioners court after:
- (1) the single office determines that the application complies with the criteria for approval;
  - (2) the single office determines under Section 30-1-132 (*Fiscal Security*) the amount of fiscal security required;
  - (3) for commissioners court consideration, the applicant posts the required fiscal security;
  - (4) the owners of the land included in the proposed plat sign the plat and each owner's signature is acknowledged; and
  - (5) the single office approves subdivision construction plans for the proposed plat, or the applicant files subdivision construction plans with the single office and includes the following note on the proposed plat:

The owner of this subdivision and the owner's successors and assigns are responsible for construction of subdivision improvements that comply with City of Austin and Travis County regulations. The owner understands that plat vacation or replatting may be required, at the owner's expense, if plans to construct this subdivision do not comply with the regulations.

- (B) **An** application for plat approval expires on the '90th day after the single office's determination under Subsection (A)(1) unless Subsections (A)(2) through (5) are satisfied.

Source: ~~City~~ Code Section 25-4-83.

**§ 30-2-84 PLAT APPROVAL AUTHORITY AND CRITERIA.**

- (A) This subsection prescribes approval authority and criteria for the city
- (1) The land use commission may approve a plat, except as provided in Paragraphs (2) and (3).
  - (2) The council may approve a plat if an applicant files with the director a request for concurrent consideration by the council of a preliminary plan and a plat.
  - (3) The director may approve a plat:
    - (a) that consists of four or fewer lots fronting on an existing street and does not create a new street, or is an amending plat described in Chapter 212 of the Local Government Code;
    - (b) for which water and wastewater service for development on the proposed lots is immediately available without a service extension; and
    - (c) ~~or~~ for which a variance is not required.
  - (4) The director, land use commission, or council shall approve a plat that complies with the comprehensive plan and the requirements of this title.
- (B) This subsection prescribes approval authority and criteria for the county.
- (1) The commissioners court may approve a plat, except as provided in Paragraph (2).
  - (2) The executive manager may approve a plat:
    - (a) that consists of four or fewer lots fronting on an existing street and does not create a new street, or is an amending plat described in Chapter 212 of the Local Government Code;
    - (b) for which water and wastewater service for development on the proposed lots is immediately available without a service extension; and
    - (c) for which a variance is not required.
  - (3) The commissioners court or executive manager shall approve a plat if it complies with the requirements of this title.

(C) Approval of a plat is conditioned on the applicant's posting the fiscal security required by this title in the amount determined by the single office. After the single office certifies on the plat that the applicant has posted the fiscal security:

(1) for a city approval:

- (a) the presiding officer of the land use commission shall endorse the plat to certify the land use commission's approval;
- (b) the mayor shall endorse the plat to certify the council's approval; or
- (c) the director shall endorse the plat to certify the director's approval; and

(2) for a county approval:

- (a) the executive manager shall endorse the plat to certify the executive manager's approval; or
- (b) the county clerk shall endorse the plat to certify the commissioners court approval.

(D) Approval of a plat expires on the 90th day after the approval date if the single office has not certified that the applicant has posted fiscal security.

*Source: City Code Section 25-4-84.*

### **§ 30-2-85 RECORDATION.**

(A) The single office shall record an approved plat in each county where land included in the plat is located.

(B) The single office may not record a plat unless the city and each county have approved the plat.

*Source: City Code Section 25-4-85.*

### **§ 30-2-86 EFFECT OF PRELIMINARY PLAN EXPIRATION.**

When an approved preliminary plan expires, a pending application for plat approval expires.

*Source: City Code Section 25-4-86*

## Division 4. Construction.

### § 30-2-101 SUBDIVISION CONSTRUCTION PLAN.

- (A) The single office may release a subdivision construction plan if:
- (1) the single office approves the subdivision construction plan; and
  - (2) the applicant posts the required fiscal security with the single office.
- (B) The single office's release of a subdivision construction plan authorizes the applicant to begin development in accordance with the plan.

*Source: City Code Section 25-4-101.*

### § 30-2-102 EXPIRATION OF SUBDIVISION CONSTRUCTION PLAN.

- (A) A subdivision construction plan expires three years after the date of its approval unless:
- (1) the land use commission and the commissioners court both approve a later expiration date when they approve the plat;
  - (2) before the plan expires, site work is commenced and diligently pursued to completion; or
  - (3) the single office extends the expiration date under Subsection (B).
- (B) An applicant may request that the single office extend the expiration date of a subdivision construction plan by filing a written request and justification with the single office before the expiration date.
- (1) The single office may extend the expiration date of the plan once for a period of one year if the single office determines:
    - (a) there is good cause for the extension;
    - (b) there has not been a significant change in development conditions affecting the plan; and
    - (c) the plan continues to comply with the criteria for its approval and release.
  - (2) **An** applicant may appeal the single office's decision under this subsection to the land use commission and the commissioners court.

- (3) The single office shall give notice under Section 30-1-153(A) (*Notice Of Public Hearing*) of the land use commission's consideration of an appeal.
- (4) The land use commission and the commissioners court shall each conduct a public hearing on an appeal before taking action.
- (5) **An** appeal may be granted only by joint action of the land use commission and the commissioners court.

(C) If the land use commission and the commissioners court approve different expiration dates, the earlier date controls.

Source: *City Code Section 25-4-102.*

### **§ 30-2-103 CONSTRUCTION MANAGEMENT AND CERTIFICATION.**

- (A) Construction management for a subdivision is governed by Chapter 30-1, Article 10 (*Subdivision Construction*).
- (B) Issuance of a certificate of compliance for a subdivision is governed by Chapter 30-1, Article 11 (*Certificates Of Compliance*).

Source: ~~City~~ *Code Section 25-4-103.*

## **ARTICLE 3. PLATTING REQUIREMENTS.**

### **Division 1. Property Markers, Easements, And Alleys.**

#### **§ 30-2-131 PROPERTY MARKERS.**

- (A) A surveyor shall mark each boundary comer, intermediate property comer, curve point, and angle point of a subdivision with a permanent marker identified in the most recent edition of the Manual of Practice for Land Surveying in Texas, published by the Texas Society of Professional Surveyors.
- (B) One boundary comer shall be marked with a concrete monument, unless a concrete monument exists on an adjacent platted subdivision within 1,300 feet of the proposed plat.
- (C) Permanent markers along boundary lines may be spaced not more than 1,300 feet apart.
- (D) **If** a subdivision includes or is bounded by a 100-year floodplain or newly dedicated street, a permanent benchmark is required.

*Source: City Code Section 25-4-131; County Code Section 82.204(c)(16) and (17).*

**§ 30-2-132 EASEMENTS AND ALLEYS.**

- (A) Easements for public utilities and drainage ways shall be retained in all subdivisions in the widths and locations determined necessary by the single office. All easements shall be dedicated to public use for the named purpose and shall be aligned to minimize construction cost.
- (B) Off-street loading and unloading facilities shall be provided on all commercial and industrial lots. The subdivider shall note this requirement on a preliminary plan and a plat.
- (C) A private alley is permitted if a plat note provides for alley maintenance by the adjoining property owners or a property owners association.
  - (1) Except as provided in Paragraph (2), the minimum alley width is 30 feet, and the minimum pavement width is 20 feet.
  - (2) For a residential alley, the minimum alley width is 20 feet, and the minimum pavement width is 15 feet.

*Source: City Code Section 25-4-132; County Code Section 82.202(p)*

**§ 30-2-133 EASEMENTS IN AREAS ADJOINING PROPOSED SUBDIVISION.**

If the single office determines that easements in areas adjoining a proposed subdivision are necessary to provide adequate drainage or utility service, the subdivider shall obtain the easements or make arrangements with the city or county, as appropriate, to obtain them.

*Source: City Code Section 25-4-133; County Code Section 82.202(i).*

**Division 2. Streets.**

**§ 30-2-151 STREET ALIGNMENT.**

Streets of a new subdivision shall be aligned with existing streets on adjoining property unless the platting board determines that topography, requirements of traffic circulation, the comprehensive plan in a near-term annexation area, or other considerations make it desirable to vary the alignment.

*Source: City Code Section 25-4-151; County Code Section 82.202(b).*

### **§30-2-152 DEAD-END STREETS.**

- (A) A street may terminate in a cul-de-sac if the single office determines that the most desirable plan requires laying out a dead-end street.
- (B) A platting board variance is required for a dead-end street more than 2,000 feet long.
- (C) The platting official may approve a deviation from the cul-de-sac design described in the Transportation Criteria Manual if the platting official determines that topography, density, adequate traffic circulation, or unusual conditions necessitate a different design.
- (D) This subsection applies to a dead-end street that terminates at the boundary of an undeveloped property with an established right of access across the property being subdivided. The boundary line must form a chord in the cul-de-sac that is equal in length to the right of way width..

*Source: City Code Section 25-4-152; County Code Section 82.202(j)*

### **§ 30-2-153 BLOCKLENGTH.**

- (A) A block may not exceed 1,200 feet in length, except as provided in this section.
- (B) A residential block that is parallel and adjacent to an arterial street may be up to 1,500 feet in length.
- (C) A commercial or industrial block may be up to 2,000 feet in length if the single office determines that there is adequate traffic circulation and utility service.
- (D) The single office may approve a longer block length if the single office determines that the proposed block length adequately meets the requirements of traffic circulation, utility service, topography, and the comprehensive plan in a near-term annexation area.
- (E) **An** applicant may appeal a single office determination under Subsection (C) or (D) to the platting board.

*Source: City Code Section 25-4-153; County Code Section 82.202(l).*

### **§ 30-2-154 STREET DESIGN AND CONSTRUCTION.**

A street or street intersection, whether public or private, shall be designed and constructed in accordance with the Transportation Criteria Manual.

*Source: City Code Section 25-4-154; County Code Section 82.302(a).*

**§ 30-2-155 STREET NAMES.**

- (A) New streets in subdivisions shall be named to provide continuity of name with existing streets and to prevent conflict with identical or similarly spelled or pronounced names in other parts of the planning jurisdiction.
- (B) **An** applicant may suggest a street name. Approval of a street name by the city's 911 computer mapping division is required before a final plat may be approved.

*Source: City Code Section 25-4-155; County Code Section 82.303(a).*

**§ 30-2-156 STREET SIGNS.**

- (A) The location of a street sign is determined by the most recent version of the Texas Manual On Uniform Control Devices.
- (B) The subdivider shall provide street name signs for street intersections with traffic signals.
- (C) The subdivider shall provide and install pole mounted street name signs at street intersections without traffic signals.

*Source: City Code Section 25-4-156; County Code Section 82.303.*

**§ 30-2-157 TRAFFIC CONTROL.**

- (A) Before a plat may be approved, a subdivider shall submit to the single office a traffic control plan for the installation of traffic control signs and devices, pavement striping, and pavement markers. Approval of the traffic control plan by the single office is required.
- (B) A subdivider is responsible for installing a traffic control feature described in the traffic control plan. The fabrication and installation of a traffic control feature must be in accordance with the Texas Manual Of Uniform Traffic Control Devices.

*Source: County Code Section 82.303.*

**§ 30-2-158 SUBDIVISION ACCESS STREETS.**

(A) In this section:

- (1) ACCESS STREET means a street that provides access to a subdivision by connecting to an external street.

(2) **EXTERNAL STREET** means a street that is outside the boundaries of a subdivision, and that is:

- (a) a publicly maintained street;
- (b) a street that is offered for dedication and for which a construction performance bond is posted pending acceptance of the dedication; or
- (c) a private street that complies with the requirements of this title and each applicable criteria manual.

(B) Except as otherwise provided in this section:

- (1) a new subdivision must have at least two access streets; and
- (2) each of the two access streets must connect to a different external street.

(C) A new subdivision may have one access street if the single office determines that:

(1) the access street:

- (a) does not cross an area with a high wildland fire protection rating, as determined in accordance with the National Fire Protection Association Bulletin 299, "Protection of Life and Property from Wildfire", published in 1992;
- (b) is not inundated by more than nine inches of water by a 100-year flood, as determined in accordance with the Drainage Criteria Manual; and
- (c) has a paved width of at least 36 feet from the intersection of the access street with the external street for a distance of

(i) 100 feet; or

(ii) 50 feet if the access street has curb and gutter; and

(2) the access street:

- (a) is not more than 2,000 feet in length, and provides access to not more than 30 single-family residential dwellings; or
- (b) is an arterial or collector street, and its intersection with the external street will function at a level of service of "C" or better during

construction and after build-out of the subdivision, as determined by an intersection analysis that is:

- (i) approved by the platting official; and
- (ii) if the subdivision generates more than 1,000 vehicle trips a day, prepared by a registered professional engineer in accordance with the Transportation Criteria Manual or Transportation Research Board Special Report 209, "Highway Capacity Manual", published in 1994.

(D) **A** new subdivision may have one access street if the single office determines that providing more than one access street is undesirable, unnecessary, or impractical after considering:

- (1) traffic circulation;
- (2) traffic safety;
- (3) flood and fire safety;
- (4) topography;
- (5) the density of the subdivision and surrounding developed property;
- (6) whether later development of adjacent property is anticipated to provide additional access;
- (7) whether traffic through the subdivision should be limited;
- (8) the environmental effect of a cut or fill, waterway crossing, or other surface disturbance necessary to provide more than one access street;
- (9) whether the access street is a divided street;
- (10) whether adverse effects, if any, from permitting one access street are mitigated, including whether secondary pedestrian access is provided; and
- (11) whether the subdivider:
  - (a) owns adjacent property through which access can be provided;
  - (b) has the right to provide a second access street across another person's property; or

- (c) is able to develop the subdivision if more than one access street is required.

*Source: City Code Section 25-4-157; County Code Section 82.202(c).*

**§ 30-2-159 PRIVATE STREETS.**

- (A) The platting board may approve a variance allowing a private street in a subdivision if the requirements of this section are met.
- (B) In this section, the meaning of “adjacent property” is limited to a property that is adjacent to the proposed subdivision and that has an established right of access through a proposed private street.
- (C) Written approval of the owner of adjacent property is required to establish a private street.
- (D) If the only access to adjacent property is through a proposed private street:
- (1) the owner of the proposed subdivision must prepare and file in the county’s official public records a joint access agreement that allows unrestricted access through the private street to the adjacent property; and
  - (2) the owner of the adjacent property must prepare and file in the county’s official public records a joint access agreement that requires private streets and street maintenance when the adjacent property is developed.
- (E) A property owners association must be responsible for maintenance of the private street.
- (F) The subdivider must obtain the approval of the single office of the following documents relating to the property owners association:
- (1) covenants, conditions, and restrictions that provide for ownership, maintenance, fee assessment, and association dues; and
  - (2) bylaws that provide for membership and voting rights.
- (G) A private street must have a direct connection to a dedicated public street or another approved private street.
- (H) A private street may not be the only connection between two public streets.
- (I) The subdivider must identify a private street on the plat as a separate access, drainage, and public utility easement and as a separate lot.

- (J) The subdivider must install standard street names at each intersection.
- (K) The subdivider must post a sign indicating "private street" at each intersection of a private street with a public street.
- (L) If the subdivider proposes use of a security gate:
  - (1) the gate must be at least 40 feet from the right-of-way of the nearest intersecting street; and
  - (2) the subdivider must:
    - (a) provide the single office with plans showing the location of the gate; and
    - (b) obtain approval of the gate design from the city, county, emergency service provider, and other governmental entity with jurisdiction, if any.
- (M) The subdivider must place the following notes on the plat:

All private streets shown on this plat [list street names] and any security gates or devices controlling access to the streets **will** be owned and maintained by the property owners association of this subdivision.

The undersigned owner subdivides [number] acres of land out of the [number] acre tract in accordance with this plat, to be known as "[subdivision name]" subdivision, subject to the covenants and restrictions shown on this plat, and dedicates to the owners of the lots in the subdivision, public utilities serving the subdivision, emergency services providers with jurisdiction, and public service agencies, the use of all the private street and other easements shown on this plat, subject to any easements or restrictions previously granted and not released. The maintenance of and payment of real property taxes on the private streets are the responsibility of the owner of the subdivision or property owners association under that certain instrument of record under Document Number [number], of the Official Public Records of Travis County, Texas. **An** express easement is granted across the private streets and any common areas for the use of all governmental functions, vehicular and nonvehicular, including fire and police protection, solid and other waste material pickup, and any other purpose a governmental entity deems necessary. Owner agrees that all governmental entities and their agents and

employees are not responsible or liable for any damage occurring to the surface of the private street or any common area as a result of use by governmental vehicles.

### **Division 3. Lots.**

#### **§ 30-2-171 ACCESS TO LOTS.**

- (A) Except as provided in Section 30-2-159 (*Private Streets*) and Subsection (B), each lot in a subdivision shall abut a dedicated public street.
- (B) The platting board may approve a variance to the requirement of Subsection (A), including approval of a subdivision with private access easements, if development of the subdivision with the variance places a minimal burden on the existing road infrastructure and all other requirements for a variance are met.
- (C) Chapter 30-3, Article 3 (*Access*) governs access to a lot:
  - (1) on a roadway designated as a major arterial, freeway, parkway, expressway, or toll road in the transportation plan; or
  - (2) on a hill country roadway.

*Source: City Code Section 25-4-171; County Code Section 82.202(d).*

#### **§ 30-2-172 THROUGH LOTS IN A SINGLE- FAMILY SUBDIVISION.**

A through lot in a single-family residential subdivision is permitted if access to one of the abutting streets is prohibited. If one of the streets abutting a through lot is an arterial, access to the arterial is prohibited unless the single office determines that topography or property size justify access to the arterial.

*Source: City Code Section 25-4-172; County Code Section 82.202(m).*

#### **§ 30-2-173 LOT ARRANGEMENT.**

The side lines of lots must be approximately at right angles to straight street lines or radial to curved street lines. An arrangement placing adjacent lots at right angles to each other may be disallowed by the single office.

*Source: City Code Section 25-4-173.*

**§ 30-2-174 LOT SIZE.**

- (A) In an area annexed by the city for limited purposes, the site development regulations for the zoning district in which a lot is located determine minimum lot area and minimum lot width.
- (B) 'Outside a limited-purpose area, residential'lot requirements are as follows:
  - (1) minimum lot area is:
    - (a) in a subdivision served by a public wastewater system or central wastewater disposal unit:
      - (i) 5,750 square feet; or
      - (ii) 6,900 square feet for a'corner lot; or
    - (b) in a subdivision with private on-site sewage facilities, as determined by the authorized agent in accordance with Texas Administrative Code Title 30, Chapter 285 (*On-Site Sewage Facilities*);
  - (2) minimum lot width is:
    - (a) 50 feet for an interior lot;
    - (b) 60 feet for a comer lot; or
    - (c) 33 feet for a lot on a cul-de-sac or curved street; and
  - (3) minimum lot frontage, including a flag lot, is:
    - (a) 15 feet; or
    - (b) if a culvert is required for a driveway approach, 30 feet.
- (C) The single office may reduce the minimum lot frontage prescribed by Subsection (B) if the single office determines that access to the lot is restricted to a joint use driveway.

*Source: City Code Section 25-4-174; County Code Sections 82.202(o) and 82.302(d)(10).*

**§ 30-2-175 LOTS ON STREETS WITHOUT CURB AND GUTTER.**

- (A) A lot in a subdivision designed with streets without curb and gutter must be one-half acre or more in size and have 100 feet or more of street frontage.

- (B) Land designated in a preliminary plan as dedicated for open space or public right-of-way may not be used to calculate a lot size for a lot described in Subsection (A).

*Source: City Code Section 25-6-204; County Code Section 82.302(d)(10)*

#### **Division 4. Utilities.**

##### **§ 30-2-191 WATER LINES.**

- (A) A subdivision within 100 feet of a public water system must be connected to the public water system. The director may waive this requirement.
- (B) If a subdivision is to be served by a public water system:
- (1) approval of the water system plans by the director of the Water and Wastewater Utility is required;
  - (2) installation of the water system must comply with the requirements of this title and the Utilities Criteria Manual; and
  - (3) water lines to serve each lot must be installed before a lot may be occupied.

*Source: City Code Section 25-4-191; County Code Section 82.302(c)(12).*

##### **§ 30-2-192 WASTEWATER LINES.**

- (A) A subdivision within 100 feet of a public wastewater system must be connected to the public wastewater system. In the extraterritorial jurisdiction, the director may waive this requirement. In the zoning jurisdiction, this requirement may be waived under City Code Section 25-9-4 (*Connection To Organized Wastewater System Required*).
- (B) If a subdivision is to be served by a public wastewater system or community disposal system, wastewater lines to serve each lot must be installed before a lot may be occupied.

*Source: City Code Section 25-4-192; County Code Section 82.203(b)(18).*

##### **§ 30-2-193 GAS LINES.**

If natural gas from a public utility is available within 2,000 feet of a subdivision, the subdivider shall:

- (1) prepare plans for installation of natural gas lines to serve each lot and install the portions of the lines that are under a street or alley; or

- (2) place a note on the plat stating that natural gas lines have not been installed.

*Source: Section 25-4-193; County Code Section 82.204(e)(5).*

### **§ 30-2-194 INSTALLATION OF LINES.**

A subdivider shall arrange with the appropriate utility departments and utility companies for the construction of water, wastewater, and gas utility lines unless the city manager approves the installation of utility lines by another entity.

*Source: ~~City~~ Code Section 25-4-194.*

### **§ 30-2-195 REQUESTS FOR UTILITY SERVICE.**

To have municipal water or wastewater service extended to land within the extraterritorial jurisdiction, a landowner shall file with the director of the Water and Wastewater Utility a written request for extension of service and for annexation by the city. The city may record an owner's request in the county deed records.

*Source: City Code Section 25-4-195*

### **§ 30-2-196 INDEPENDENT UTILITY DISTRICTS' AND PRIVATE WATER AND SEWER CORPORATIONS.**

- (A) This section applies to a subdivision that is to receive water or wastewater service from an entity other than the city's Water and Wastewater Utility.
- (B) A plat may not be approved unless the subdivider has complied with the requirements of this subsection.
  - (1) The subdivider shall provide the director with a copy of a contract between the subdivider and the utility service provider that provides for installing utility lines and furnishing adequate utility service.
  - (2) Water or wastewater system plans must comply with the requirements of this title and the Utilities Criteria Manual.
  - (3) Approval of water or wastewater system plans by the director of the Water and Wastewater Utility and the Texas Commission on Environmental Quality is required.
- (C) Approval of the construction of water or wastewater facilities by the director of the Water and Wastewater Utility is required. A city inspector may inspect the facilities during construction. The director of the Water and Wastewater Utility may require that the subdivider pay an inspection fee.

*Source: City Code Section 25-4-196; County Code Sections 82.203(b)(18) and 82.204(e)(3).*

**§ 30-2-197 SUBDIVISIONS WHERE WATER OR WASTEWATER SERVICES ARE NOT AVAILABLE.**

- (A) A plat may not be approved unless the subdivider has complied with the requirements of this section, if applicable.
- (B) If a subdivision is not to be served by a water utility, the subdivider shall provide the director with evidence that water suitable for human consumption may be obtained from surface or subsurface sources on the land. The evidence may include the results of tests and borings, and statements from local and state health authorities, water engineers, and other competent authorities. If the subdivider proposes a private water supply for the subdivision, the plans and specification shall be prepared by a registered professional engineer and approved by the director of the Water and Wastewater Utility and the Texas Commission on Environmental Quality.
- (C) If a subdivision is not to be served by a sanitary sewer utility and the use of private on-site sewage facilities has not been approved by the authorized agent in accordance with Texas Administrative Code Title 30, Chapter 285 (*On-Site Sewage Facilities*), the subdivider shall construct a community sewage collection and treatment system that serves each lot. The system must be designed and located in accordance with the regulations of the Texas Commission on Environmental Quality and the local health authority. Approval by the director of the Water and Wastewater Utility of the plans for the system is required.

*Source: City Code Section 25-4-197; County Code Section 82.204(c)(18) and (19).*

**§ 30-2-198 PRIVATE ON-SITE SEWAGE FACILITY.**

A subdivision that is to be served by private on-site sewage facilities must comply with the requirements of the authorized agent adopted in accordance with Texas Administrative Code Title 30, Chapter 285 (*On-Site Sewage Facilities*). The authorized agent shall review a preliminary plan or plat and report its findings to the single office.

*Source: City Code Section 25-4-198.*

**§ 30-2-199 STREET LIGHTS.**

- (A) A plat may not be approved unless the subdivider has complied with the requirements of this section, if applicable.

- (B) This section applies to the residential portion of a subdivision in the service area of the city's electric utility department if the subdivision is located:
  - (1) at least partially inside the city limits; or
  - (2) outside the city limits, and the subdivider has requested annexation.
- (C) A subdivider shall pay street lighting charges to the electric utility department. The director may waive this requirement if the director determines that street lighting is not necessary, the requirement imposes an unreasonable hardship on the applicant, or obtaining payment for street lighting is impractical.
- (D) The city shall use a payment collected under this section to install street lights in the residential areas of the subdivision for which it was collected.
- (E) The city shall refund a payment collected under this section to the subdivider if the city does not install street lights within two years after the date the subdivider makes the payment.
- (F) This section does not require the city to install street lights in a subdivision that has not been annexed.

*Source: City Code Section 25-4-199.*

#### **Division 5. Parkland Dedication.**

#### **§ 30-2-211 DEFINITIONS.**

In this division:

- (1) DIRECTOR, when used without a qualifier, means:
  - (a) if the city is the park service provider, the director of the city's Parks And Recreation Department; or
  - (b) if the county is the park service provider, the executive manager of the county's Transportation And Natural Resources Department.
- (2) PARK SERVICE PROVIDER means the city or the county, as determined by Section 30-2-212 (*Park Service Provider Determination*).

*Source: City/County subdivision agreement; County Code Section 82.208.*

#### **§ 30-2-212 PARK SERVICE PROVIDER DETERMINATION.**

- (A) A determination of whether the city or the county is the park service provider is based on the earlier of

- (1) the date an application for preliminary plan approval is filed; or
- (2) the date an application for final plat approval is filed.

(B) The governmental body that has a park nearest to the proposed subdivision is the park service provider, unless the managing officials agree otherwise.

*Source: City/County subdivision agreement; County Code Section 82.208.*

### **§ 30-2-213 APPLICABILITY.**

- (A) The parkland dedication requirements of this division apply to all residential subdivisions, except as provided in Subsection (B).
- (B) The following are exempt from the requirements of this part:
- (1) a plat with not more than four single-family lots that may be approved without a preliminary plan;
  - (2) a resubdivision of land that does not increase the number of dwelling units;
  - (3) a subdivision for which a preliminary plan was approved after June 30, 1984 and before July 8, 1985; and
  - (4) if the city is the park service provider, a subdivision of land within a municipal utility district that has a consent agreement and land use plan approved by the city that provides for the dedication of parkland or recreational facilities or the payment of fees instead of dedication of the parkland or facilities.

*Source: City Code Section 2.5-4-211; County Code Section 82.208.*

### **§ 30-2-214 DEDICATION OF PARKLAND REQUIRED.**

- (A) A subdivider of a residential subdivision shall provide for the parkland needs of the residents by the dedication of suitable land for park and recreational purposes under this division.
- (B) The area to be dedicated must be shown on the preliminary plan and the plat and included in the dedication statement. The subdivider shall dedicate to the park service provider all parkland required by this division when a plat is approved.
- (C) The amount of parkland required to be dedicated by the subdivider to the park service provider is five acres for every 1,000 residents, as determined by the following formula:

$$\frac{5 \times (\text{Number Of Units}) \times (\text{Residents Per Unit})}{1000} = \text{Acres of parkland}$$

- (D) 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:

<u>Dwelling Units Per Acre</u>	<u>Residents In Each Dwelling Unit</u>
Not more than 6	2.8
More than 6 and not more than 12	2.2
More than 12	1.7

- (E) In calculating the amount of parkland to be dedicated under this section, density for a multifamily subdivision is assumed to be the highest permitted in the zoning district, or if the property is not zoned, **24** dwelling units per acre. The subdivider may reduce the assumed density by restricting density in a restrictive covenant enforceable by the park service provider and approved by the park service provider's attorney.

*Source: City Code Section 25-4-212; County Code Section 82.208.*

**§ 30-2-215 STANDARDS FOR DEDICATED PARKLAND.**

- (A) Land to be dedicated as parkland must comply with the standards in the Administrative Criteria Manual and this section, and if the city is the park service provider, the comprehensive plan, and the Park And Recreation Action Plan.
- (B) The director shall determine whether land offered for dedication complies with the standards for dedication.
- (C) Fifty percent of acreage in the 100-year floodplain that is dedicated as parkland may be credited toward fulfilling the requirements of this part if the adjoining land within the 25-year floodplain, if any, is also dedicated as parkland. The land within the 25-year floodplain may not be credited toward fulfilling the requirements of this part.
- (D) Land identified on the Critical Areas Map maintained by the Watershed Protection and Development Review Department that does not otherwise comply with the standards for parkland dedication may be accepted as dedicated parkland if the 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 part.

*Source: City Code Section 25-4-213.*

**§ 30-2-216 PRIVATE PARKLAND.**

- (A) The director may allow up to a 50 percent credit toward fulfilling the requirements of this part for privately owned and maintained park and recreational facilities that are for use by the residents of a subdivision.
- (B) If the city is the park service provider, the director may allow up to a 100 percent credit toward fulfilling the requirements of this **part** for private parkland in a subdivision located outside the city limits, if the subdivider agrees to dedicate the private parkland to the city when the city annexes the subdivision for all purposes.
- (C) Private parkland excludes yards, setback areas, and open spaces required by this title.

*Source: City Code Section 25-4-214; County Code Section 82.208.*

**§ 30-2-217 PAYMENT INSTEAD OF LAND.**

- (A) The director may require a subdivider to deposit with the park service provider a cash payment or fiscal security instead of the dedication of parkland if
  - (1) less than six acres is required to be dedicated; or
  - (2) the land available for dedication does not comply with the standards for dedication.
- (B) A deposit is calculated by multiplying the number of acres of parkland required to be dedicated by the average value of an acre of land in the subdivision. The average value of an acre of land in the subdivision is calculated by dividing the fair market value of the land in the subdivision by the number of acres in the subdivision. To make this calculation, the subdivider may select one of the following fair market value determinations:
  - (1) the current fair market value of the land as shown on the records of the tax appraisal district;
  - (2) the current fair market value of the land as determined by a qualified real estate appraiser at the subdivider's expense, if the director approves the appraiser and certifies that the appraisal fairly reflects the land value; or
  - (3) the current fair market value of the land as determined by a qualified real estate appraiser employed by the park service provider.

- (C) A deposit must be placed in the park service provider's park improvement fund. The deposit must be used for the acquisition or improvement of parks that will benefit the residents of the subdivision and that are located in the service area defined by the park service provider.
- (D) The park service provider shall expend a deposit within five years from the date it is received. This period is extended by five years if, at the expiration of the initial five year period, less than 50 percent of the residential units in the subdivision have been constructed.
- (E) If the park service provider does not expend a deposit by the deadline described in Subsection (D), and the actual number of residential units constructed is less than the number assumed at the time the deposit was calculated, the owner may request a refund. The request must be in writing and filed with the director not later than 180 days after the expiration of the time period described in Subsection (D). A refund is calculated by multiplying the percentage of the reduction in the number of residential units times the amount of the deposit. A refund may not exceed the unexpended amount of a deposit.

*Source: City Code Section 25-4-215; County Code Section 82.208.*

#### **§ 30-2-218 SUBMITTAL REQUIREMENTS.**

- (A) The director may request that the subdivider provide information relating to proposed parkland to determine whether the proposed parkland complies with this part.
- (B) A subdivider shall provide the information requested under this section

*Source: City Code Section 25-4-216; County Code Section 82.208.*

### **Division 6. Special Subdivisions.**

#### **§ 30-2-231 TOWNHOUSE LOTS.**

- (A) This section applies to a subdivision with townhouse lots.
- (B) Common areas must be identified on the plat. An applicant shall provide for maintenance of and payment of taxes on common areas.
- (C) An applicant shall submit to the single office a legal opinion that describes the rights and duties of the owners, the legal status of common areas and facilities, and the provisions for taxation and maintenance of the common areas.

- (D) An applicant shall submit to the single office a site plan showing the locations and dimensions of buildings, accessory uses, and other improvements.

*Source: City Code Section 25-4-231.*

**\$30-2-232 SMALL LOT SUBDIVISIONS.**

- (A) This section applies to a subdivision with small lots.
- (B) A small lot subdivision may not be approved unless service is available to each lot in the subdivision from public water and centralized sewer systems.
- (C) A small lot subdivision must comply with the following requirements:
- (1) Minimum lot area is:
    - (a) 3,600 square feet, except for a comer lot; and
    - (b) 4,500 square feet for a comer lot.
  - (2) Minimum lot width is:
    - (a) 40 feet for an interior lot;
    - (b) 50 feet for a comer lot; and
    - (c) 40 feet for a lot on a cul-de-sac or curved street, except it may be 33 feet at the front lot line.
  - (3) Minimum front yard setback is 20 feet.
  - (4) Minimum street side yard setback is ten feet.
  - (5) A lot may have one zero lot line.
  - (6) The combined side yard setbacks of a lot may be not less than ten feet.
  - (7) Except for a patio or patio cover, the minimum distance between structures on adjoining lots is ten feet. The minimum distance between a patio or patio cover and the roof line of a structure on an adjoining lot is six feet.
  - (8) The wall of a structure built adjacent to a zero lot line or within five feet of a common side lot line must be solid and opaque and may not contain an opening.
  - (9) Minimum rear yard setback is five feet, excluding drainage easements.

- (10) Minimum setback is ten feet between a rear access easement and a building or fence.
  - (11) Maximum building coverage is 45 percent.
  - (12) Maximum impervious cover is 55 percent.
  - (13) Maximum building height is 35 feet.
  - (14) A lot may have not more than one dwelling unit.
  - (15) Two off-street parking spaces, are required for each dwelling unit.
  - (16) A maintenance easement is required in the dominant side yard of a lot.
  - (17) A use easement is required in the subordinate side yard of a lot
  - (18) A lot that is less than 50 feet wide and that fronts on a collector street must have a private access easement along the rear property line.
  - (19) Minimum pavement width of a private access easement is 25 feet. In the extraterritorial jurisdiction, the minimum pavement width is 25 feet or the width required by the county, whichever is greater.
  - (20) A lot may not front on an arterial street;
  - (21) Underground utility service to all lots is required.
  - (22) Maintenance of a common area or access easement is the responsibility of the adjoining property owner or the homeowners' association, in accordance with the required declaration of covenants, easements, and restrictions.
- (D) The single office may not record a plat of a small lot subdivision unless a declaration of covenants, easements, and restrictions or similar document has been approved by the city attorney, recorded, and referenced on the plat. The document must contain the following:
- (1) a statement that the subdivision is developed under this section and incorporating the requirements of this section by reference;
  - (2) a description of the requirements of Subsections (C)(1) through (14) and an imposition of those requirements as a restriction running with the land; and
  - (3) a restriction of the use of the property to:

- (a) one-family dwellings except mobile homes;
  - (b) accessory uses permitted in **an SF-3** district;
  - (c) parks, playgrounds, open space, and common areas providing recreational amenities to the subdivision; and
  - (d) growing agricultural crops;
- (4) provisions for the maintenance easements and use easements required by this section; and
  - (5) provisions obligating the adjoining property owner or the homeowners' association to maintain common areas and access easements.

Source: **City** Code Section 25-4-232; County Code Section 82.202(o)

**§ 30-2-233 SINGLE.-FAMILY ATTACHED RESIDENTIAL SUBDIVISION.**

- (A) This section applies to a subdivision with single-family attached residential lots.
- (B) **A** subdivision with single-family attached residential lots is permitted on:
  - (1) unplatted land;
  - (2) a platted duplex lot that is vacant; or
  - (3) a platted lot developed with a duplex on or before March 1, 1987, if the duplex complies with current regulations.
- (C) Single-family attached residential lots may be created only in multiples of two lots per site, and each lot must be served by public water and sewage systems.
- (D) **A** lot may be subject to, or benefited by, private utility easements.
- (E) **A** lot must comply with the following requirements:
  - (1) Minimum site area is 7,000 square feet.
  - (2) Minimum lot area is 3,000 square feet.
  - (3) Minimum lot width is:
    - (a) 25 feet, except for a lot on a cul-de-sac or curved street; and
    - (b) 20 feet on a cul-de-sac or curved street.

- (4) A lot may have not more than one dwelling unit.
  - (5) Maximum height is 35 feet.
  - (6) Minimum front yard setback is 25 feet.
  - (7) Minimum street side yard setback is 15 feet.
  - (8) Minimum interior side yard setback is five feet, except between attached units.
  - (9) Minimum rear yard setback is 10 feet.
  - (10) Maximum building coverage is 40 percent.
  - (11) Maximum impervious coverage is 45 percent.
  - (12) At least two off-street parking spaces are required for a dwelling. The driveway may count as one of the spaces.
- (F) A plat of a single family attached subdivision may not be recorded unless a declaration of covenants, easements, **and** restrictions or similar document has been approved by the city attorney, recorded, and referenced on the plat. The document must:
- (1) require that development and use of the lots comply with this title;
  - (2) require that construction of a dwelling unit comply with City Code Chapter 25-12, Article 1 (*Uniform Building Code*), Article 4 (*Electrical Code*), Article 5 (*Uniform Mechanical Code*), Article 6 (*Uniform Plumbing Code*), and Article 7 (*Uniform Fire Code*).
- (G) This subsection applies to the sale of a single-family attached residential lot,
- (1) A seller shall deliver to the purchaser:
    - (a) a copy of the document described in Subsection (F); and
    - (b) a notice stating that the property will be conveyed under the terms of the document, and that the purchaser is advised to consult an attorney concerning the purchaser's rights and obligations under the document.
  - (2) A purchaser may terminate the sale contract without penalty:
    - (a) within five days of the purchaser's receipt of the document and notice under Subsection (G)(1); or

(b) at **any** time before closing, if the seller does not deliver the document and notice.

*Source: City Code Section 25-4-233.*

**CHAPTER 30-3. TRANSPORTATION.**

**ARTICLE 1. RESERVATION AND DEDICATION OF RIGHT-OF-WAY.**

**Division 1. General Provisions.**

**§ 30-3-1 APPLICABILITY.**

This article applies to land for which an owner files an application for preliminary plan or final plat approval.

*Source: City Code Section 25-6-21.*

**§ 30-3-2 ESTABLISHING BUILDING LINES.**

The provisions of this article relating to the reservation of right-of-way and waiver of reservation of right-of-way requirements do not preclude the city or county from establishing a building line on a right-of-way under state law.

*Source: City Code Section 25-6-22.*

**Division 2. Reservation And Dedication Of Right Of Way.**

**§ 30-3-21 RESERVATION OF RIGHT-OF-WAY.**

(A) The city and county reserve right-of-way along a roadway designated:

- (1) in the transportation plan;
- (2) in the collector plan approved in accordance with Section 30-3-73 (*Collector Street Plan*); or
- (3) in an established city or county capital improvement project.

(B) The extent and location of the right-of-way reserved under Subsection (A) must conform to the transportation plan, approved collector plan, or capital improvement project.

*Source: City Code Section 25-6-51; County Code Section 82.202(f)(3).*

**§ 30-3-22 CONSTRUCTING A STRUCTURE OR IMPROVEMENT IN RIGHT-OF-WAY PROHIBITED.**

Except as provided in Section 30-3-26 (*Agreement For Temporary Use Of Reserved Right-Of-Way*) and Section 30-3-41 (*Waiver Request*), a person may not erect a structure or make an improvement in a reserved right-of-way.

Source: City Code Section 25-6-52; County Code Section 82.202(f)(4).

**§ 30-3-23 MEASURING SETBACKS.**

A setback line prescribed under this title is measured from the boundary of the reserved right-of-way adjacent to the property unless waived under Section 30-3-43 (*Action On Waiver*).

Source: City Code Section 25-6-53.

**§ 30-3-24 ALIGNMENT.**

- (A) The single office shall determine the alignment of reserved right-of-way during:
- (1) the review and approval process for a development application; or
  - (2) if an applicant files a waiver request under Section 30-3-41 (*Waiver Request*), not later than the 60th day after the waiver request is filed.
- (B) The alignment of reserved right-of-way is based on:
- (1) the alignment established in the transportation plan, collector plan, or capital improvement project; and
  - (2) engineering criteria, including grade, curvature, and the existence of a flood plain.
- (C) In an area designated for a state roadway project, alignment may be established by the Texas Department of Transportation.
- (D) For an existing or platted street, the alignment is based on:
- (1) the existing centerline established before an additional dedication from the opposite side of the right-of way occurs; or
  - (2) if the centerline of the street is proposed to be shifted from its present alignment, the proposed centerline.
- (E) If the alignment for a roadway cannot be determined under Subsection (D), the reserved right-of-way shall be established equally on each side of the centerline of the existing roadway.

Source: City Code Section 25-6-54; County Code Section 82.202(f)(3) and (4).

**§ 30-3-25 DEDICATION OF RIGHT-OF-WAY.**

- (A) If the single office determines that all or a portion of a right-of-way is needed to accommodate the estimated traffic generated by a proposed development, the applicant may be required to dedicate:
- (1) an amount of land not to exceed 150 feet for a roadway that is subject to reservation of right-of-way under Section 30-3-21 (*Reservation Of Right- Of- Way*) and that is internal to a proposed subdivision or development project; or
  - (2) an amount of land not to exceed 50 percent of the total right-of-way requirement for an existing or proposed roadway that:
    - (a) is subject to reservation of right-of-way under Section 30-3-21 (*Reservation Of Right-Of- Way*); and
    - (b) adjoins a proposed subdivision or development project.
- (B) **An** applicant may not be required to dedicate more than 75 feet of land under Subsection (A)(2).
- (C) The single office may require the dedication of right-of-way in an amount greater than established in Subsection (A):
- (1) for a street that is not subject to reserved right-of-way and that does not comply with the standards in the Transportation Criteria Manual; or
  - (2) if the additional right-of-way is necessary to accommodate traffic generated by the proposed development.
- (D) The single office may defer the dedication of right-of-way required at one stage of the development process to a later stage. A person must comply with all dedication requirements before the release of the subsequent application.
- (E) In addition to the dedication of right-of-way, the single office may require the applicant to construct a roadway improvement or may assess a fee instead of requiring construction of a roadway improvement to offset the traffic effects generated by the proposed development.
- (F) Notwithstanding the other requirements of this section, roadway improvements are required only to a degree that is roughly proportional to the nature and extent of the impact of the proposed development. To the extent that the full amount of right-of-way specified in this section is not required to be dedicated,

the right-of-way is reserved and subject to Section 30-3-22 (*Constructing A Structure Or Improvement In Right-Of-Way Prohibited*).

Source: City Code Section 25-6-55; County Code Section 82.202(f) – (g).

**§ 30-3-26 AGREEMENT FOR TEMPORARY USE OF RESERVED RIGHT-OF-WAY.**

- (A) The county or, in a near-term annexation area, the city may by written agreement authorize use of reserved right-of-way for a temporary structure or improvement, including a parking area, detention pond, landscaping, or sign.
- (B) The agreement must contain:
  - (1) an expiration date for the use of the right-of-way;
  - (2) the method the city or county, as applicable, will use to notify the property owner that a temporary improvement must be removed;
  - (3) a requirement that the property owner replace the improvements on the remainder of the property when the temporary improvements are removed, if the improvements are required by the City Code or this title;
  - (4) the applicant's address for notification; and
  - (5) a penalty for failure to remove a temporary improvement.

Source: City Code Section 25-6-56; County Code Section 82.202(f)(4)(A).

**Division 3. Waivers And Variances.**

**§ 30-3-41 WAIVER REQUEST.**

- (A) **An** applicant who files a development application that proposes to erect a structure or construct an improvement **in** a reserved right-of-way or in a required setback from reserved right-of-way must:
  - (1) execute an agreement under Section 30-3-26 (*Agreement For Temporary Use Of Reserved Right-Of-Way*); or
  - (2) submit a request for waiver of the reservation requirements of this article with the development application.
- (B) **An** owner of property reserved for right-of-way who does not have a development application pending with the city or county may apply for a waiver of the reservation requirements of this article if 15 percent or more of

the property is or would be subject to the reservation requirements of Section 30-3-21 (*Reservation Of Right-Of-Way*).

- (C) A waiver granted under Subsection (B) is only effective until the single office determines that acquisition of a reserved right-of-way is feasible.

*Source: City Code Section 25-6-81; County Code Section 82.202(f)(4)(B)*

**§ 30-3-42: NOTICE OF WAIVER REQUEST.**

- (A) After receiving a waiver request, the single office shall establish the alignment of a relevant roadway and, if a development application has been filed, shall apply the dedication standards under Section 30-3-25 (*Dedication Of Right-Of-Way*).
- (B) If an application covers an area designated as a state roadway project, the single office shall:
- (1) notify the Texas Department of Transportation that:
    - (a) a request for a waiver has been filed; and
    - (b) if applicable, that a development application has been filed proposing construction in a reserved right-of-way or setback from reserved right-of-way; and
  - (2) request field notes from the Texas Department of Transportation.
- (C) If the proposed structure or improvement is located in reserved right-of-way subject to dedication, the single office shall require that the application be amended to show the land to be dedicated.
- (D) The single office shall certify that:
- (1) the dedication requirements have been applied to the application and that a request for a waiver to erect a structure or construct an improvement in the reserved right-of-way has been filed; or
  - (2) a request for waiver of the reservation requirements of this article has been filed by an applicant who does not have a development application pending before the city or county and that 15 percent or more of the property is or would be subject to the reservation requirements of this article.

*Source: City Code Section 25-6-82; County Code Section 82.202(f)(4)(B).*

**§ 30-3-43 ACTION ON WAIVER.**

- (A) Not later than the 90th day after the certification under Section 30-3-42 (*Notice Of Waiver Request*), the executive manager, or in a near-term annexation area the director of the city's Transportation, Planning, and Sustainability Department, shall determine whether the city or county, as applicable, is able to acquire the reserved right-of-way that is the subject of a waiver request.
- (B) If the city or county is not able acquire the property single office shall:
  - (1) release the application from the requirement to comply with the requirements of this article; or
  - (2) if no application has been filed, grant the waiver request for the period of time that the city or county, as applicable, is unable to acquire the reserved right-of-way.
- (C) If the city or county is able acquire the reserved right-of-way, the single office shall deny the waiver. The single office may not approve the development application for a period not to exceed six months, pending acquisition of the property. If the city or county has not acquired the property during the six month period, the single office shall continue to process the application.

*Source: City Code Section 25-6-83; County Code Section 82.202(f)(4)(B).*

**§ 30-3-44 APPEAL OF DENIAL OF WAIVER.**

**An** applicant may appeal the single office's denial of a waiver request to the council or commissioners court, as appropriate.

*Source: City Code Section 25-6-84.*

**§ 30-3-45 AMENDING DEVELOPMENT APPLICATION.**

- (A) **An** applicant may amend a development application to exclude an improvement from a reserved right-of-way.
- (B) If an applicant amends an application to exclude an improvement from a reserved right-of-way, the city or county may discontinue procedures to acquire the reserved right-of-way.

*Source: City Code Section 25-6-85*

**§ 30-3-46 VARIANCE FROM DEDICATION REQUIREMENTS.**

- (A) The platting official may grant a variance from the dedication requirements of Section 30-3-25 (*Dedication Of Right-of-way*) if the platting official determines that the requirements:
- (1) place an undue hardship on the property owner because of special circumstances applicable to the property; or
  - (2) render the property unsuitable for an economically feasible use.
- (B) **An** applicant may appeal the denial of a variance to the council or commissioners court, as appropriate.

*Source: City Code Section 25-6-86.*

**ARTICLE 2. STREET DESIGN.**

**Division 1. Roadways Generally.**

**§ 30-3-71 STANDARDS FOR DESIGN AND CONSTRUCTION.**

- (A) Except as provided in Subsections (B) and (C), a roadway, street, or alley must be designed and constructed in accordance with the Transportation Criteria Manual and City of Austin Standards and Standard Specifications.
- (B) The platting official may approve a local street that is less than 50 feet in width if a street of narrower width is warranted by topographical conditions, a drainage channel, proposed limited development on one side of the street, or other special condition.
- (C) A roadway, street, or alley may be designed and constructed without curb and gutter if it is located in a subdivision that is more than two miles **from** the city limits and has a density of less than two and one-half lots or dwelling units for each acre.

*Source: City Code Section 25-6-171; County Code Section 82.302(a).*

**§ 30-3-72 ARTERIAL STREETS.**

**An** arterial street must comply with the transportation plan.

*Source: City Code Section 25-6-172; County Code Section 82.202(f)(4).*

**§ 30-3-73 COLLECTOR STREET PLAN.**

- (A) The single office shall make recommendations to the planning commission and the commissioners court regarding the designation of collector streets.
- (B) The planning commission and the commissioners court, acting jointly, shall designate collector streets after receiving the recommendations required under Subsection (A).

*Source: City Code Section 25-6-173*

**§ 30-3-74 PARTIAL CONSTRUCTION OF BOUNDARY STREETS.**

The executive manager, or in a near-term annexation area the director of the city's Transportation, Planning, and Sustainability Department, may allow a person to construct one-half of a divided arterial roadway adjoining a subdivision after determining that:

- (1) the pavement width of the proposed roadway is at least **24** feet; and
- (2) the roadway can safely be used as a two-way street until construction of the entire divided roadway is completed.

*Source: City Code Section 25-6-174; County Code Section 82.202(g).*

**Division 2. Roadways In Water Supply Rural Watersheds Or Water Supply Suburban Watersheds.**

**§ 30-3-91 APPLICABILITY.**

This division applies to a subdivision if a part of the subdivision is in a water supply rural watershed or water supply suburban watershed.

*Source: ..CityCode Section 25-6-201.*

**§ 30-3-92 STREETS IN A CRITICAL WATER QUALITY ZONE OR WATER QUALITY BUFFER ZONE.**

- (A) The right-of-way and street design for a local or collector street in a residential area located in a critical water quality zone or a water quality buffer zone must comply with the alternative geometric design criteria for streets without curbs and gutters prescribed in the Transportation Criteria Manual.
- (B) A street in a critical water quality zone or a water quality buffer zone other than a street described in Subsection (A) may comply with the alternative geometric design criteria in the Transportation Criteria Manual if the executive

manager, or in a near-term annexation area the director of the city's Transportation, Planning, and Sustainability Department, determines that the design is consistent with transportation principles.

- (C) A street in an upland zone may be designed to comply with the alternative geometric design criteria in the Transportation Criteria Manual if the executive manager, or in a near-term annexation area the director of the city's Transportation, Planning, and Sustainability Department, determines that the design is consistent with transportation principles.

*Source: City Code Section 25-6-202; County Code Section 82.302(a).*

### **§ 30-3-93 STREET CROSS-SECTION DESIGN.**

**An** applicant must designate the type of street cross-section design to be used in a preliminary subdivision at the time that the plan is filed.

*Source: City Code Section 25-6-203; County Code Section 82.302(a).*

### **§30-3-94 COLLECTOR AND LOCAL STREETS.**

The executive manager, or in a near-term annexation area the director of the city's Transportation, Planning, and Sustainability Department, may modify a curb and gutter requirement or the minimum width of a right-of-way prescribed in the Transportation Criteria Manual for a local or collector street after considering:

- (1) a report from the single office that assesses the adequacy with which a proposed alternative design deals with storm water drainage, traffic safety, and general public welfare;
- (2) the applicant's written statement in support of the modification; and
- (3) the applicant's preliminary plan for street construction under the proposed modification.

*Source: City Code Section 25-6-205; County Code Section 82.302(a).*

## **ARTICLE 3. ACCESS.**

### **Division 1. Access To Major Roadway.**

#### **§ 30-3-121 MINIMUM FRONTAGE FOR ACCESS.**

- (A) In this section, MAJOR ROADWAY means a roadway that is designated as a major arterial, expressway, parkway, freeway, or toll road in the transportation plan.
- (B) Except as provided in Subsections (C) and (D), a subdivision plat may not provide for direct access from a lot to a major roadway unless the lot contains 200 feet or more of frontage on the major roadway and alternative access is not available.
- (C) The platting official shall permit access *to* a major roadway *from* a property with less than 200 feet of frontage on a major roadway if the property is subject to right-of-way condemnation and if the platting official determines that:
- (1) the property possessed more than 200 feet of frontage on the roadway before condemnation;
  - (2) the proposed driveway is not located in a controlled access area;
  - (3) the proposed driveway is the lesser of 100 feet or 60 percent of the frontage from the intersection; and
  - (4) the driveway does not create a public safety hazard.
- (D) If direct access to a major roadway is not authorized under Subsection (B) and alternative access is not available, the platting official shall permit one driveway approach from the property to a major roadway.
- (E) The platting official may require joint access to a major roadway for adjoining lots that have insufficient frontage to allow a driveway approach for each lot under the requirements of the Transportation Criteria Manual.

*Source: City Code Section 25-6-381; County Code Section 82.202(d)(6).*

#### **§ 30-3-122 PROPERTY SUBJECT TO CONDEMNATION.**

On the request of a condemning authority or property owner before acquisition of a right-of-way occurs, the platting official may modify the access requirements of this division and the Transportation Criteria Manual for a property in a major roadway area

that is subject to right-of-way condemnation if the modification does not create a public safety hazard or have an adverse effect on traffic operation.

*Source: City Code Section 25-6-382; County Code Section 82.202(d)(6)(E).*

## **Division 2. Access to Hill Country Roadways.**

### **§ 30-3-141 HILL COUNTRY ROADWAYS AND CORRIDORS IDENTIFIED.**

**(A)** Except as provided in Subsection (B), a hill country roadway corridor is the land within the city's zoning jurisdiction located within 1,000 feet from each side of the right-of-way of the following hill country roadways:

- (1) Loop 360, from US 290 West to US 183;
- (2) RM 620, from SH 71 to Anderson Mill Road;
- (3) RM 2222, from Highland Hills Drive to RM 620;
- (4) RM 2244, from Loop 360 to SH 71; and
- (5) Southwest Parkway.

**(B)** A hill country roadway or hill country roadway corridor excludes land within 1,000 feet of the right-of-way of US 183 or US 290 West.

*Source: City Code Sections 25-2-1103, 25-2-1104.*

### **§ 30-3-142 STREET SPACING.**

The minimum distance between local streets that intersect with a hill country roadway must be 600 feet. The minimum distance between collector streets that intersect with a hill country roadway must be 1,320 feet.

*Source: City Code Section 25-6-412.*

### **§ 30-3-143 ALIGNMENT OF STREETS AND MEDIANS.**

**(A)** Except as provided by Subsection (B), the design and construction of a connecting street that intersects with an existing divided hill country roadway must align with an existing median break on a hill country roadway.

**(B)** The single office may approve the construction of a connecting street that does not align with an existing median break if alignment is not practicable.

*Source: City Code Section 25-6-413.*

### **§ 30-3-144 IMPROVEMENTS TO INTERSECTIONS.**

- (A) The single office may require an improvement at the intersection of a hill country roadway with another street if the results of a traffic impact analysis indicate that an improvement is necessary.
- (B) The single office may approve the construction of a grade-separated interchange on a hill country roadway that provides access for a single development if
  - (1) the interchange is located at the intersection of a hill country roadway and an arterial street; or
  - (2) the location of the interchange provides spacing for weaving maneuvers at ramps.

*Source: City Code Section 25-6-414.*

### **§ 30-3-145 ACCESS FROM A SITE.**

- (A) A maximum of two access points is permitted from any one site to a hill country roadway.
- (B) The single office may prohibit access to a hill country roadway from:
  - (1) a tract that has access to a street that intersects with a hill country roadway; or
  - (2) a tract that has frontage on a hill country roadway and that has access to a hill country roadway through an existing joint-use access easement or driveway.
- (C) If access to a hill country roadway from a site described in Subsection (B) is permitted, the single office shall limit access to one driveway unless:
  - (1) the estimated daily traffic volume for the single driveway exceeds 5,000 vehicles per day;
  - (2) the traffic using the single driveway would exceed the capacity of an intersection controlled by a stop sign during one peak street traffic hour or the peak site traffic hour; or
  - (3) based on the results of a traffic impact analysis, the single office determines that an additional driveway is necessary because of traffic conditions.

*Source: City Code Section 25-6-415.*

**§ 30-3-146 REQUIREMENTS FOR DRIVEWAYS.**

- (A) The maximum practical spacing between driveways along a hill country roadway must be provided.
- (B) Unless otherwise approved by the single office, a driveway providing access to a hill country roadway:
  - (1) must be at least 300 feet from the nearest driveway unless the driveway provides the only access available for a tract of land;
  - (2) must have a sight distance of at least 550 feet;
  - (3) may not be on the inside radius of a curve; or
  - (4) may not access a portion of a hill country roadway that has a grade of eight percent or more.

*Source: City Code Section 25-6-416.*

**§ 30-3-147 JOINT-USE DRIVEWAY REQUIREMENTS.**

- (A) The single office may require an applicant to provide an easement for a joint-use driveway across the applicant's tract generally parallel with the right-of-way of a hill country roadway for the use of an adjacent property owner that has insufficient frontage for access.
- (B) Access to a hill country roadway through a joint-use driveway is not permitted for a tract that does not have frontage on a hill country roadway unless approved by the single office.

*Source: City Code Section 25-6-417.*

**§ 30-3-148 COST-SHARING FOR JOINT-USE DRIVEWAY IMPROVEMENTS.**

- (A) If an applicant is required to construct a joint-use driveway, the owner of an adjacent tract benefited by the driveway must participate in the cost of the driveway on a pro rata basis.
- (B) If the owner of a tract that benefits from a joint-use driveway is unable to participate in the cost of the driveway at the time the driveway is scheduled for construction, the owner of the tract on which the driveway is to be constructed may elect not to construct the driveway.

- (C) **An** owner electing not to construct a driveway under Subsection (B) must leave sufficient area for the construction of the driveway.
- (D) If **an** owner of a tract on which a driveway is to be constructed elects to construct the driveway before the adjoining tract is developed, the owner of a benefited tract shall share in the cost of the driveway at the time the adjoining tract is developed.

*Source: City Code Section 25-6-418.*

**§ 30-3-149 EXCLUDING IMPERVIOUS COVER OF A JOINT-USE DRIVEWAY.**

- (A) A calculation of the allowable impervious cover on a site on which a joint use driveway required under this division is located shall exclude:
- (1) 110 percent of impervious cover that is required for the sole purpose of providing access from adjoining land to a joint-use driveway located entirely on the site; and
  - (2) 50 percent of impervious cover that is required to provide a joint-use driveway if a portion of the driveway is not located on the adjoining land. .
- (B) The impervious cover excluded from the calculation of impervious cover on a site under Subsection (A) does not include impervious cover that serves as a parking space or an aisle serving a parking space.

*Source: City Code Section 25-6-419.*

**Division 3. Driveways.**

**§ 30-3-161 JOINT USE DRIVEWAY PERMITTED.**

- (A) Vehicular access to a tract of land through a joint use driveway is permitted as **an** alternative to direct access to **an** abutting public or private street.
- (B) A joint use driveway used as alternative access for a single-family residential use may serve not more than eight dwelling units.

*Source: City Code Section 25-6-451; County Code Section 82.302(d)(11).*

**§ 30-3-162 DRIVEWAYS ON STREETS WITHOUT CURB AND GUTTER**

The centerline of a driveway on a street without curb and gutter must be at least 100 feet from the centerline of another driveway on the same side of the street.

*Source: County Code Section 82.307(d)(10).*

#### **ARTICLE 4. SIDEWALKS.**

##### **§ 30-3-191 SIDEWALK INSTALLATION IN SUBDIVISIONS.**

- (A) A person who subdivides property shall install sidewalks in a subdivision in accordance with state and federal accessibility standards and the Transportation Criteria Manual. A preliminary subdivision plan and a final plat must indicate the location of a proposed sidewalk.
- (B) The platting board may waive the requirement to install a sidewalk based on criteria in the Transportation Criteria Manual.
- (C) The platting official may approve the construction of a sidewalk on only one side of a street if the platting official determines that the limiting sidewalk construction to one side of the street is necessary to make the street buildable in compliance with state and federal standards for access by disabled persons.
- (D) A sidewalk that is indicated on a recorded plat or approved site plan shall be installed in conjunction with the installation of a type 1 or type 2 driveway approach.
- (E) Until a sidewalk required under this division is installed:
  - (1) the single office may not issue a certificate of compliance; and
  - (2) the city building official may not issue a certificate of occupancy, if required.
- (F) The construction of a sidewalk or driveway approach is not complete until all utility connections are complete and a cut required by the utility installation is restored.

*Source: City Code Section 25-6-351; County Code Section 82.202(q).*

## CHAPTER 30-4. DRAINAGE

### ARTICLE I. GENERAL PROVISIONS.

#### § 30-4-1 OBSTRUCTION OF WATERWAYS PROHIBITED.

Unless authorized by a subdivision construction plan approved under this title, City Code Title 25 (*Land Development*), or County Code Chapter 64 (*Regulations For Flood Management And Guidelines For Development Permits*), or a site plan approved under City Code Chapter 25-5 (*Site Plans*), a person may not place, or cause to be placed, an obstruction in a waterway.

*Source: City Code Section 25-7-2; County Code Section 82.202(n).*

#### § 30-4-2 DUTY TO MAINTAIN UNOBSTRUCTED WATERWAYS.

The person in control of real property traversed by a waterway shall keep the waterway free from an obstruction that is not authorized by a site plan.

*Source: City Code Section 25-7-3.*

#### § 30-4-3 STANDING WATER DECLARED A NUISANCE.

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

*Source: City Code Section 25-7-4.*

#### § 30-4-4 25-YEAR AND 100-YEAR FLOODPLAIN DETERMINATION.

In this chapter, a reference to the 25-year floodplain or the 100-year floodplain means the 25-year or 100-year floodplain as that floodplain is calculated to exist under fully developed conditions as determined under the Drainage Criteria Manual.

*Source: City Code Section 25-7-5; County Code Section 82.207(b) – (d).*

#### § 30-4-5 COMPUTATION OF STORMWATER RUNOFF.

Stormwater runoff shall be computed on the basis of a fully developed contributing drainage area or watershed as determined under the Drainage Criteria Manual.

*Source: City Code Section 25-7-6; County Code Section 82.207(b).*

**ARTICLE 2. DRAINAGE STUDIES; FLOODPLAIN AND FLOODWAY  
DELINEATION.**

**§ 30-4-31 SINGLE OFFICE AUTHORIZED TO REQUIRE DRAINAGE STUDIES.**

- (A) The single office may require the owner of real property to provide, at the owner's expense, a drainage study for the total area to be ultimately developed. This requirement is a condition of approval for a preliminary plan or for a final plat if a preliminary plan is not required.
- (B) The drainage study must be in accordance with the Administrative Manual and the Drainage Criteria Manual.
- (C) Until the single office receives the drainage study, the single office may not accept for review a construction plan for any portion of the proposed development.

*Source: City Code Section 25-7-31; County Code Section 82.207(c).*

**§ 30-4-32 FLOODPLAIN MAPS, DELINEATION, AND DEPICTION.**

- (A) In this section:
  - (1) **DRAINAGE EASEMENT** means an easement or right-of-way for a drainage facility required by Section 30-4-152 (*Dedication Of Easements And Rights-Of-Way*).
  - (2) **FEMA FLOODPLAIN** means a special flood hazard area delineated on a flood insurance rate map.
  - (3) **FLOOD INSURANCE RATE MAP** means an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- (B) The director shall designate and maintain official floodplain maps delineating the 100-year floodplain.
- (C) If an official floodplain map is not available, the owner of property to be developed shall calculate the boundaries of the 100-year floodplain in accordance with the Drainage Criteria Manual and submit the calculation to the single office for approval.
- (D) If the single office determines that Federal Emergency Management Agency regulations require a submission to the agency of a request for a

flood insurance rate map revision, the single office may require that the owner of property to be developed submit the revision request.

- (E) A person who files an application for approval of a preliminary plan, final plat, or subdivision construction plan shall depict, as applicable:
  - (1) on a preliminary plan or subdivision construction plan:
    - (a) a 100-year floodplain;
    - (b) a FEMA floodplain; and
    - (c) a drainage easement or proposed drainage easement; or
  - (2) on a final plat:
    - (a) a drainage easement; and
    - (b) a portion of a FEMA floodplain that is outside a drainage easement.
- (F) If a portion of a FEMA floodplain is outside a drainage easement, the owner of property to be developed shall, on a final plat:
  - (1) identify the portion of the FEMA floodplain that is outside the drainage easement, including the community and panel number of the flood insurance rate map; and
  - (2) include a note that:
    - (a) refers the reader to federal and local regulations governing development in a FEMA floodplain;
    - (b) states that flood insurance may be required; and
    - (c) describes efforts to revise the flood insurance rate map.

*Source: City Code Section 25-7-32; County Code Section 82.207(c) and (g).*

### **ARTICLE 3. REQUIREMENTS FOR APPROVAL.**

#### **§ 30-4-61 CRITERIA FOR APPROVAL OF PLATS AND CONSTRUCTION PLANS.**

- (A) A final plat or subdivision construction plan may not be approved unless:

- (1) the proposed plat or construction plan provides a sufficient waterway for the design flood, as determined under the Drainage Criteria Manual;'
- (2) each proposed improvement is sufficiently strong to resist:
  - (a) external pressure caused by earth or building; and
  - (b) internal pressure or abrasion caused by water or debris;
- (3) the proposed grades will not permit water to gather in a pool that may become stagnant;
- (4) temporary and permanent measures to control erosion are sufficient to minimize siltation of the waterway, as determined under the Environmental Criteria Manual; and
- (5) the proposed development:
  - (a) will not result in additional identifiable adverse flooding on other property;
  - (b) except as provided by Subsection (B), to the greatest extent feasible preserves the natural and traditional character of the land and the waterway located within the 100-year floodplain; and
  - (c) except as provided by Subsection (C), includes on-site control of the two-year peak flow, as determined under the Drainage Criteria Manual and the Environmental Criteria Manual.

(B) This subsection provides for modification of the natural and traditional character of land or a waterway located within the 100-year floodplain.

- (1) **An** applicant who seeks to modify the natural and traditional character of land or a waterway must:
  - (a) provide the single office with an analysis that:
    - (i) is prepared by a qualified environmental professional;
    - (ii) is based on a field investigation; and
    - (iii) assesses the suitability of maintaining the land's or waterway's natural and traditional character and the effects of the proposed modification on the natural and traditional character; and
  - (b) submit a request to the Federal Emergency Management Agency for a revision to the applicable flood insurance study; and

- (c) provide assurances satisfactory to the floodplain administrator that the waterway's flood carrying capacity is maintained.
- (2) The single office shall permit a modification if the single office determines that:
- (a) the waterway is subject to accelerated streambank erosion;
  - (b) the waterway is subject to scouring, erosion, or sediment deposition that alters the flow of the fully-developed two-year storm event;
  - (c) a modification is necessary to provide a reasonable location for an outlet into the waterway from an upland drainage system;
  - (d) the natural and traditional character has already been significantly altered by human activity; or
  - (e) the modification is outside of
    - (i) the critical water quality zone;
    - (ii) the floodway; and
    - (iii) a riparian ecosystem associated with the waterway, if any.
- (3) The single office may permit a modification for the construction of a structural flood control measure, including a flood wall or levee, if the single office determines that:
- (a) an existing structure is within the 100-year floodplain; or
  - (b) the 100-year floodplain is more than 500 feet wide.
- (C) A proposed development may provide off-site control of the two-year peak flow if the off-site control does not cause:
- (1) an adverse water quality impact from increased in-stream peak flow; or
  - (2) streambank erosion.

*Source: City Code Section 25-7-61; County Code Section 82.2070).*

**§ 30-4-62 CERTIFICATE OF PROFESSIONAL ENGINEER REQUIRED FOR CERTAIN ALTERATIONS AND IMPROVEMENTS.**

- (A) The single office may not accept a plan or specification for a proposed alteration or improvement of a bed or bank of a waterway unless the plan or

specification is accompanied by a certificate bearing the seal of a Texas professional engineer certifying that:

- (1) the hydraulic and structural design is adequate; and
  - (2) the proposed alteration or improvement complies with the ordinances of the city and county, the Drainage Criteria Manual, and the laws of this state.
- (B) Subsection (A) does not prohibit the single office from accepting a plan or specification for a minor alteration or improvement that, in the judgment of the single office, does not require certification by a Texas professional engineer.

Source: ~~City~~ Code Section 25-7-62.

### **§ 30-4-63 APPROVAL BY SINGLE OFFICE OF CERTAIN PERMITS AND CERTIFICATES.**

If a plat or subdivision construction plan requires the completion or partial completion of a drainage improvement before a building may be constructed on a lot, a building permit, certificate of compliance, or development permit may not be issued for the lot unless the single office approves the issuance..

Source: ~~City~~ Code Section 25-7-63.

## ***ARTICLE 4. DESIGN AND CONSTRUCTION STANDARDS.***

### **§ 30-4-121 DESIGN AND CONSTRUCTION OF DRAINAGE FACILITIES AND IMPROVEMENTS.**

The design and construction of a drainage facility or improvement must:

- (1) be in accordance with the Drainage Criteria Manual; and
- (2) provide for maintenance and protection from erosion in accordance with the Environmental Criteria Manual.

Source: City Code Section 25-7-121; County Code Section 82.207(b).

### **§ 30-4-122 ENCLOSED STORM SEWER SYSTEM.**

An enclosed storm sewer system is required to accommodate the portion of the design flow that exceeds street capacities as determined under the Drainage Criteria Manual.

*Source: City Code Section 25-7-122; County Code Section 82.207(k).*

**§ 30-4-123 ENCLOSED STORM SEWERS, BRIDGES, AND CULVERTS.**

- (A) Except as provided in Section 30-4-125 (*Open Drainage Ditches*), the subdivider shall install enclosed storm sewers, bridges, and culverts throughout the entire length of the drainage area in a subdivision.
- (B) The single office must approve the plans and specifications for a storm sewer, bridge, or culvert.
- (C) The county's Transportation and Natural Resources Department or city's Public Works Department may supervise the construction of a storm sewer, bridge, or culvert.

*Source: City Code Section 25-7-123; County Code Section 82.207(k).*

**§ 30-4-124 MANHOLES REQUIRED FOR COVERED WATERCOURSES.**

- (A) If a creek, branch, drainway, or watercourse is covered, manholes shall be installed at intervals of not more than one-half the length of an average city block.
- (B) Each manhole required by Subsection (A):
  - (1) must have a removable cover; and
  - (2) must be at least two feet in diameter.
- (C) Work required by Subsection (A):
  - (1) must be done under the supervision of the county's Transportation and Natural Resources Department or the city's Public Works Department; and
  - (2) may be inspected at any time by an officer or employee of the city or county, as applicable.

*Source: City Code Section 25-7-124; County Code Section 82.207(l)*

**§ 30-4-125 OPEN DRAINAGE DITCHES.**

**An** open drainage ditch may be constructed only if the platting official determines that the ditch will not adversely affect the public health, safety, or general welfare.

**ARTICLE 5. RESPONSIBILITIES OF OWNER OR DEVELOPER.**

**§ 30-4-151 STORMWATER CONVEYANCE AND DRAINAGE FACILITIES.**

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

- (a) finance the entire cost of acquiring the necessary property interest; and
- (b) retain full responsibility for construction of the required off-site improvement.

*Source: City Code Section 25-7-151; County Code Section 82.207(e).*

**§ 30-4-152 DEDICATION OF EASEMENTS AND RIGHTS-OF-WAY.**

- (A) The owner of real property proposed to be developed shall dedicate to the public ~~an~~ easement or right-of way for a drainage facility, open or enclosed, and stormwater flow to the limits of the 100-year floodplain.
- (B) **An** easement or right-of-way required by Subsection (A) must be:
  - (1) a minimum of 25 feet in width for an open drainage system; or
  - (2) a minimum of 15 feet in width for an enclosed drainage system
- (C) The owner of the property shall dedicate any additional easement or right-of-way that is necessary to allow continuous access for the operation, maintenance, or rehabilitation of a drainage facility.
- (D) A part of a lot or tract of land that is located in an easement or right-of-way required by this section may be included as part of the area of the lot or tract of land in the calculation of density or impervious cover.

*Source: City Code Section 25-7-152; County Code Section 82.207(c).*

**§ 30-4-153 MAINTENANCE OF CERTAIN DETENTION BASINS AND APPURTENANCES.**

- (A) The record owner of a detention basin or appurtenance that receives stormwater runoff from a commercial or multifamily development shall maintain the basin or appurtenance in accordance with the maintenance standards in the Drainage Criteria Manual.
- (B) The county shall maintain a detention basin or appurtenance that is an integral part of a county road.
- (C) ,Section 30-5-231 (*Water Quality Control Maintenance And Inspection*) provides for maintenance of water quality controls.

*Source: City Code Section 25-7-153; County Code Section 82.207(m).*

## CHAPTER 30-5. ENVIRONMENT

### SUBCHAPTER A. WATER QUALITY

#### ARTICLE 1. GENERAL PROVISIONS.

##### Division 1. Definitions; Descriptions of Regulated Areas.

#### § 30-5-1 DEFINITIONS.

In this subchapter:

- (1) BLUFF is limited to a bluff with a vertical change in elevation of more than 40 feet and an average gradient greater than 400 percent.
- (2) CANYON RIMROCK is limited to a rimrock with a rock substrate that:
  - (a) has a gradient that exceeds 60 percent for a vertical distance of at least four feet; and
  - (b) is exposed for at least 50 feet horizontally along the rim of the canyon.
- (3) COMMERCIAL DEVELOPMENT means all development other than open space and residential development.
- (4) CREST OF BLUFF is limited to a crest of a bluff that is described in Subsection (1). A crest coincides with a line along the top of a bluff beyond which the average slope has a gradient of not more than 50 percent for a distance of at least 40 feet.
- (5) CRITICAL ENVIRONMENTAL FEATURES are features that are of critical importance to the protection of environmental resources, and include bluffs, canyon rimrocks, caves, sinkholes, springs, and wetlands.
- (6) IMPERVIOUS COVER means roads, parking areas, buildings, rooftop landscapes and other impermeable construction covering the natural land surface.
- (7) FAULTS AND FRACTURES is limited to significant fissures or cracks in rock that may permit infiltration of surface water to underground cavities or channels.
- (8) OWNER includes a lessee.

- (9) POINT RECHARGE FEATURE means a cave, sinkhole, fault, joint, or other natural feature that lies over the Edwards Aquifer recharge zone and that may transmit a significant amount of surface water into the subsurface strata.
- (10) WATER QUALITY CONTROL means a structure, system, or feature that provides water quality benefits by treating stormwater run-off.
- (11) WETLAND means a transitional land between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water, and conforms to the Army Corps of Engineers' definition.

*Source: City Code Section 25-8-1.*

**§ 30-5-2 DESCRIPTIONS OF REGULATED AREAS.**

- (A) This section describes the watersheds, aquifers, and water zones that are regulated by this subchapter. A map of these areas is available for inspection at the offices of the single office.
- (B) Except as provided in Subsection (C), the single office shall determine the boundaries of the areas described in Subsection (D).
- (C) The council and commissioners court, acting jointly, shall determine the boundaries of the Edwards Aquifer recharge zone after receiving a recommendation from the single office. For property within 1500 feet of a boundary, the single office may require that an applicant provide a certified report from a geologist or hydrologist verifying the boundary location.
- (D) In this subchapter
  - (1) BARTON SPRINGS ZONE means all watersheds that contribute recharge to Barton Springs, including those portions of the Barton, Williamson, Slaughter, Onion, Bear and Little Bear Creek watershed located in the Edwards Aquifer recharge or contributing zones.
  - (2) BARTON CREEK WATERSHED means the land area that drains to Barton Creek.
  - (3) EDWARDS AQUIFER is the water-bearing substrata also known as the Edwards and Associated Limestones Aquifer and includes the stratigraphic rock units known as the Edwards Formation 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, Carson, Cedar, Cottonmouth, Country Club, Decker, East Dry, Elm, Gilleland, Harris Branch, Lake, Maha, Marble, North Fork, Rattan, Rinard, South Boggy, South Dry, 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, East Boggy, East Bouldin, Fort, Harper 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 the Lake Travis watershed and Lake Austin watershed, excluding the Bull Creek watershed and the area to the south of Bull Creek and the east of Lake Austin.
- (10) WATER SUPPLY SUBURBAN WATERSHEDS include:

- (a) the Bull, Eanes, North Dry, Taylor Slough, and West Bull creek watersheds;
- (b) the Town Lake watershed on the south side of Town Lake from Barton Creek to Tom Miller Dam;
- (c) the Town Lake watershed on the north side of Town Lake from Johnson Creek to Tom Miller Dam; and
- (d) the Town Lake watershed on the east side of Lake Austin from Tom Miller Dam to Bull Creek.

*Source: City Code Section 25-8-2.*

## **Division 2. Authority; Applicability; Exemption; Exceptions.**

### **§ 30-5-21 DEVELOPMENT BY CITY.**

The requirements of this subchapter apply to land development by the city.

*Source: City Code Section 25-8-22.*

### **§ 30-5-22 URBAN WATERSHED EXEMPTIONS.**

In an urban watershed, development is exempt from the requirements of this subchapter if the development is:

- (1) exempt from site plan requirements under City Code Section 25-5-2 (*Site Plan Exemptions*);
- (2) included in an application for site plan approval filed before August 30, 1991; or
- (3) located in a rural residence zoning district.

*Source: City Code Section 25-8-23.*

### **§ 30-5-23 SPECIAL EXCEPTIONS.**

Except as prohibited by Article 12 (*Save Our Springs Initiative*), a special exception from the requirements of this subchapter may be granted in accordance with Chapter 30-1, Article 9, Division 4 (*Special Exceptions*).

*Source: City Code Section 25-8-25.*

**§ 30-5-24 REDEVELOPMENT EXCEPTION.**

- (A) This section applies to property that has existing development.
- (B) The requirements of this subchapter do not apply to the redevelopment of the property if the redevelopment:
  - (1) does not increase the existing amount of impervious cover;
  - (2) provides the level of water quality treatment prescribed by current regulations for the redeveloped area or an equivalent area on the site;
  - (3) does not generate more than 2,000 vehicle trips a day above the estimated traffic level on April 17,2000;
  - (4) is consistent with the neighborhood plan adopted by council, if any; and
  - (5) for property in the drinking water protection zone, combined with all other redevelopment of the site since April 17,2000 does not affect more than 25 percent of the site's impervious cover.
- (C) To the extent of conflict with Article 12 (*Save Our Springs Initiative*), this section controls.

*City Code Section 25-8-26.*

**Division 3. Variances.**

**§ 30-5-41 LAND USE COMMISSION VARIANCES.**

- (A) Except as provided in Subsections (B) and (C), the land use commission may grant a variance from a requirement of this subchapter after determining that:
  - (1) the requirement 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 that 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 requirement of Section 30-5-393 (*Water Quality Transition Zone*), Section 30-5-423 (*Water Quality Transition Zone*), Section 30-5-453 (*Water Quality Transition Zone*), or Article 7, Division 1 (*Critical Water Quality Zone Restrictions*) after determining that:
  - (1) the criteria for granting a variance in Subsection (A) are met;
  - (2) the requirement 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 requirement of Article 12 (*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 under this section.

Source: City Code Section 25-8-41.

**§ 30-5-42 ADMINISTRATIVE VARIANCES.**

- (A) A variance under this section may not vary the requirements of Article 12 (*Save Our Springs Initiative*).
- (B) The director may grant a variance from a requirement of:
  - (1) Subsection 30-5-423(C) (*Water Quality Transition Zone*);
  - (2) Section 30-5-322 (*Clearing For A Roadway*);
  - (3) Subsection 30-5-343(A) (*Spoil Disposal*);
  - (4) Article 7, Division 1 (*Critical Water Quality Zone Restrictions*);

- (5) Section 30-5-341 (*Cut Requirements*) or Section 30-5-342 (*Fill Requirements*), for a water quality control or detention facility; or
  - (6) Section 30-5-341 (*Cut Requirements*) or Section 30-5-342 (*Fill Requirements*), for a cut or fill of not more than eight feet in the desired development zone.
- (C) The director may grant a variance described in Subsection (B) only after determining that:
- (1) development in accordance with the variance meets the objective of the requirement for which the variance is requested;
  - (2) 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; and
  - (3) for a variance described in Paragraph (B)(6), 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.
- (D) The director shall prepare written findings to support the grant or denial of a variance request under this section.

*Source: City Code Section 25-8-42.*

#### **§ 30-5-43 SUMMARY OF VARIANCES.**

The director shall prepare and maintain for public inspection a written summary of variances granted and denied under Sections 30-5-41 (*Land Use Commission Variances*) and 30-5-42 (*Administrative Variances*).

*Source: City Code Section 25-8-43.*

### **Division 4. Impervious Cover Determinations.**

#### **§ 30-5-61 APPLICABILITY.**

This division applies to the impervious cover requirements of this subchapter.

*Source: City Code Section 25-8-61.*

#### **§ 30-5-62 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.

*Source: City Code Section 25-8-62*

**§ 30-5-63 IMPERVIOUS COVER CALCULATIONS.**

(A) Impervious cover is calculated in accordance with 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;
- (8) interlocking or permeable pavers, except up to 20 percent of the area of the pavers may be excluded in calculating impervious cover if the pavers are approved by the director for recharge enhancement under Section 30-5-151 (*Innovative Management Practices*); and
- (9) 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;

- (2) water quality controls;
- (3) drainage swales and conveyances;
- (4) ponds, pools, and fountains; and
- (5) areas with gravel placed over pervious surfaces that are used only for landscaping or by pedestrians.

*Source: City Code Section 25-8-63.*

**§ 30-5-64 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.

*Source: City Code Section 25-8-64.*

**§ 30-5-65 ROADWAYS.**

- (A) Except as otherwise provided in this section, impervious cover calculations for development adjacent to a roadway shall account for the adjacent roadway.

- (B) For development with an internal roadway, impervious cover calculations include the internal roadway, except that pavement width in excess of **44** feet is excluded. This does not reduce the requirements for stormwater detention facilities or water quality controls for run-off from the roadways.
- (C) For development adjacent to a roadway built as a city Capital Improvements Program project after May 18, 1986, impervious cover calculations include one-half of the pavement width, up to a maximum of **44** feet, and the associated right-of-way.
- (D) This section does not apply in the desired development zone to a development with impervious cover of not more than:
  - (1) 5,000 square feet; or
  - (2) 7,000 square feet for development located at a smart growth transportation corridor or node described in City Code Section 25-6-3 (*Smart Growth Corridors and Nodes Described*).

Source: City Code Section 25-8-65.

## **ARTICLE 2. WATERWAYS CLASSIFIED; ZONES ESTABLISHED.**

### **§ 30-5-91 WATERWAY CLASSIFICATIONS:**

- (A) This section classifies the significant waterways in each watershed according to drainage area.
- (B) In a suburban watershed:
  - (1) a minor waterway has a drainage area of at least 320 acres and not more than 640 acres;
  - (2) an intermediate waterway has a drainage area of more than 640 acres and not more than 1280 acres; and
  - (3) a major waterway has a drainage area of more than 1280 acres.
- (C) In a water supply suburban watershed:
  - (1) a minor waterway has a drainage area of at least 128 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.

(D) In a water supply rural watershed:

(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.

(E) In the Barton Springs Zone:

(1) for the Barton Creek, Bear Creek, Little Barton Creek, Little Bear Creek, and Onion Creek watersheds:

(a) a minor waterway has a drainage area of at least 64 acres and not more than 320 acres;

(b) an intermediate waterway has a drainage area of more than 320 acres and not more than 640 acres; and

(c) a major waterway has a drainage area of more than 640 acres; and

(2) for the Slaughter Creek and Williamson Creek watersheds:

(a) a minor waterway has a drainage area of at least 128 acres and not more than 320 acres;

(b) an intermediate waterway has a drainage area of more than 320 acres and not more than 640 acres; and

(c) a major waterway has a drainage area of more than 640 acres.

*Source: City Code Section 25-8-91.*

### **§ 30-5-92 CRITICAL WATER QUALITY ZONES ESTABLISHED.**

(A) A critical water quality zone is established along each waterway classified under Section 30-5-91 (*Waterway Classifications*).

(1) The boundaries of a critical water quality zone coincide with the boundaries of the 100 year flood plain, except:

- (2) 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;
    - (a) 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;
    - (b) 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
    - (c) 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.
  - (3) Notwithstanding the provisions of Subsections (A)(2)(a), (b), and (c), a critical water quality zone does not extend beyond the crest of a bluff.
- (B) Critical water quality zones are established along and parallel to the shorelines of Lake Travis, Lake Austin, and Town 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 Town 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.
- (C) In an urban watershed, a critical water quality zone is established along each waterway with a drainage area of at least 64 acres. This does not apply in the area bounded by IH-35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.
- (1) Except as limited by Paragraph (3), for a waterway whose 100-year flood plain has been delineated by the Federal Emergency Management Agency:

- (a) the boundaries of the critical water quality zone coincide with the boundaries of the floodplain as delineated by FEMA; or
  - (b) if the applicant has calculated the 100-year flood plain for the waterway and the city has approved the calculations, the boundaries of the critical water quality zone coincide with the boundaries of the calculated flood plain.
- (2) Except as limited by Paragraph (3),<sup>1</sup> for a waterway whose 100-year flood plain has not been delineated by the Federal Emergency Management Agency:
- (a) the boundaries of a critical water quality zone are located 100 feet from the centerline of the waterway; or
  - (b) if the applicant has calculated the 100-year flood plain for the waterway and the city has approved the calculations, the boundaries of the critical water quality zone coincide with are the lesser of the boundaries of the calculated flood plain.
- (3) The boundaries of a critical water quality zone are located not less than 50 feet and not more than 400 feet from the centerline of the waterway.

*Source: City Code Section 25-8-92.*

**§ 30-5-93 WATER QUALITY TRANSITION ZONES ESTABLISHED.**

- (A) Except for Lake Austin, Lake Travis, and Town 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.

*Source: City Code Section 25-8-93.*

**§ 30-5-94 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.

Source: City Code Section 25-8-94.

**ARTICLE 3. ENVIRONMENTAL ASSESSMENT; POLLUTANT ATTENUATION PLAN.**

**§ 30-5-121 ENVIRONMENTAL ASSESSMENT REQUIREMENT.**

- (A) An applicant shall file **an** environmental assessment with the single office for proposed development 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 flood plain; or
  - (6) on a tract with a gradient of more than 15 percent.
- (B) An environmental assessment 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 and justify enclosed storm sewers; and
  - (4) describe proposed industrial uses and the pollution abatement program.
- (C) **An** environmental assessment must include:
- (1) a hydrogeologic report in accordance with Section 30-5-122 (*Hydrogeologic Report*);
  - (2) a vegetation report in accordance with Section 30-5-123 (*Vegetation Report*); and
  - (3) a wastewater report in accordance with Section 30-5-124 (*Wastewater Report*).

- (D) The single office may permit an applicant to exclude from an environmental assessment information required by this section after determining that the information is unnecessary because of the scope and nature of the proposed development.

*Source: City Code Section 25-8-121.*

### **§ 30-5-122 HYDROGEOLOGIC REPORT.**

A hydrogeologic report must:

- (1) generally describe the topography, soils, and geology of the site;
- (2) identify springs and significant point recharge features on the site; and
- (3) demonstrate that proposed drainage patterns will protect the quality and quantity of recharge at significant point recharge features.

*Source: City Code Section 25-8-122.*

### **§ 30-5-123 VEGETATION REPORT.**

A vegetation report must:

- (1) demonstrate that the proposed development:
  - (a) preserves to the greatest extent practicable the significant trees and vegetation on the site; and
  - (b) provides maximum erosion control and overland flow benefits from the vegetation;
- (2) include one of the following:
  - (a) 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
  - (b) on approval of the city arborist, stereo aerial photographs that are nine inches by nine inches in size, are at a scale of one inch to 400 feet or larger, and were photographed between the months of April and November; and
- (3) for a commercial or multifamily site, include a vegetation survey that shows the approximate locations and types of all significant vegetation.

*Source: City Code Section 25-8-123.*

## **§ 30-5-124 WASTEWATER REPORT.**

A wastewater report must:

- (1) provide environmental justification for a sewer line location in a critical water quality zone;
- (2) address construction techniques and standards for wastewater lines;
- (3) include calculations of drainfield or wastewater irrigation areas;
- (4) describe alternative wastewater disposal systems used over the Edwards Aquifer recharge zone; and
- (5) address on-site collection and treatment systems, their treatment levels, and effects on receiving watercourses or the Edwards Aquifer.

*Source: City Code Section 25-8-124.*

## **§ 30-5-125 POLLUTANT ATTENUATION PLAN.**

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

*Source: City Code Section 25-8-125.*

## **ARTICLE 4. MANAGEMENT PRACTICES; ENGINEER'S CERTIFICATION.**

### **§ 30-5-151 INNOVATIVE MANAGEMENT PRACTICES.**

- (A) An innovative runoff management practice is a practice that is designed to address the requirements of Article 6 (*Water Quality Controls*) and Section 30-5-281 (*Critical Environmental Features*): enhance the recharge of groundwater and the discharge of springs, and maintain the function of critical environmental features. The city and county encourage innovative management practices.
- (B) **An** innovative runoff management practice proposal must be reviewed and approved by the director. Review and approval is based on:
  - (1) technical merit;

- (2) compliance with the requirements of this title for water quality protection and improvement;
- (3) resource protection and improvement;
- (4) advantages over standard practices; and
- (5) anticipated maintenance requirements.

*Source: City Code Section 25-8-151.*

### **§ 30-5-152 ENGINEER'S CERTIFICATION.**

A civil engineer registered in Texas must certify a plan or plat as complete, accurate, and in compliance with the requirements of this subchapter. The single office may waive this requirement after making a determination that the plan or plat includes only minor alterations or improvement that do not require the services of an engineer.

*Source: City Code Section 25-8-152.*

## **ARTICLE 5. EROSION AND SEDIMENTATION CONTROL; OVERLAND FLOW.**

### **§ 30-5-181 EROSION AND SEDIMENTATION CONTROL.**

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.

*Source: City Code Section 25-8-181.*

### **§ 30-5-182 DEVELOPMENT COMPLETION.**

(A) Development is not completed until:

- (1) permanent revegetation is established; and
- (2) the single office:
  - (a) receives the engineer's concurrence letter; and
  - (b) certifies installation of the vegetation for acceptance.

- (B) Development must be completed under Subsection (A) before the city or county may accept maintenance responsibility for streets, drainage facilities, or utilities, or issue a certificate of compliance, unless the city or county, as applicable, and the applicant enter into an agreement to ensure completion of the revegetation within a specified period.

*Source: City Code Section 25-8-182.*

**§ 30-5-183 MODIFICATION OF EROSION CONTROL AND CONSTRUCTION SEQUENCING PLANS.**

An 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 single office has confirmed in writing the inspector's determination.

*Source: City Code Section 25-8-183.*

**§ 30-5-184 ADDITIONAL EROSION AND SEDIMENTATION CONTROL REQUIREMENTS IN THE BARTON SPRINGS ZONE.**

- (A) This section provides additional erosion and sedimentation control requirements for development in the Barton Springs Zone.
- (B) A temporary erosion and sedimentation control plan and a water quality plan certified by a registered professional engineer and approved by the single office is required.
  - (1) The plans must describe the temporary structural controls, site management practices, or other approved methods that will be used to control of off-site sedimentation until permanent revegetation is certified as completed under Section 30-5-182 (*Development Completion*).
  - (2) The temporary erosion control plan must be phased to be effective at all stages of construction. Each temporary erosion control method must be adjusted, maintained, and repaired as necessary.

(A) Drainage patterns must be designed to:

- (2) maintain infiltration and recharge of local seeps and springs;
- (3) attenuate the harm of contaminants collected and transported by

commission.

- (C) The applicant shall design an enclosed storm sewer to mitigate its harmful effect on water quality by using structural devices or other methods to prevent erosion and dissipate discharges from outlets wherever practicable, and by locating discharges to maximize overland flow through buffer zones or grass-lined swales.

*Source: City Code Section 25-8-185*

## **ARTICLE 6. WATER QUALITY CONTROLS.**

### **Division 1. Requirements and Standards.**

#### **§ 30-5-211 WATER QUALITY CONTROL REQUIREMENT.**

- (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) except as provided in Subsection (C), with impervious cover that exceeds 20 percent of net site area.
- (C) In an urban watershed:
  - (1) water quality controls are required in accordance with the Environmental Criteria Manual; and
  - (2) new development must provide for removal of floating debris from stormwater runoff.

*Source: City Code Section 25-8-211.*

#### **§ 30-5-212 PREVIOUS WAIVERS AND SPECIAL EXCEPTIONS.**

Water quality controls in accordance with Section 30-5-213 (*Water Quality Control Standards*) are required for a commercial or multifamily development with more than 20 percent impervious cover that has been granted a waiver of previous water quality requirements or a special exception under this subchapter.

*Source: City Code Section 25-8-212.*

**§ 30-5-213 WATER QUALITY CONTROL STANDARDS.**

- (A) A water quality control must be designed in accordance with the Environmental Criteria Manual.
- (1) The control must provide at least the treatment level of a sedimentation/ filtration system under the Environmental Criteria Manual.
  - (2) **An** impervious liner is required 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.
- (B) A water quality control must capture, isolate, and treat the water draining to the control from the contributing area. The required capture volume is:
- (1) the first one-half inch of runoff; and
  - (2) for each 10 percent increase in impervious cover over 20 percent of gross site area, an additional one-tenth of an inch of runoff.
- (C) The 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 is located to maximize overland flow and recharge in the undisturbed remainder of the 40 percent buffer zone.
- (D) This subsection provides additional requirements for the Barton Springs Zone.
- (1) Approval by the director is required for a proposed water quality control that is not described in the Environmental Criteria Manual. The applicant must substantiate the pollutant removal efficiency of the proposed control with published literature or a verifiable engineering study.
  - (2) Water quality controls must be placed in sequence if necessary to remove the required amount of pollutant. The sequence of controls must be:

(a) based on the Environmental Criteria Manual or generally accepted engineering principles; and

(b) designed to minimize maintenance requirements.

*Source: City Code Section 25-8-213.*

**§ 30-5-214 OPTIONAL PAYMENT INSTEAD OF STRUCTURAL CONTROLS IN URBAN WATERSHEDS.**

- (A) The director shall identify and prioritize water quality control facilities for the urban watersheds in an Urban Watersheds Structural Control Plan. The Environmental Board shall review the plan in January of each year.
- (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 under Section 30-5-211 (*Water Quality Control Requirement*), in an urban watershed a developer may request approval, to deposit with the city a nonrefundable cash payment, based on a formula established by the council. The director shall review the request and accept or deny the request not later than the 15th working day after its receipt.
- (D) The director shall deposit a payment made under this section in the Urban Watersheds Structural Control Fund.

*Source: City Code Section 25-8-214.*

**Division 2. Maintenance and Inspection.**

**§ 30-5-231 WATER QUALITY CONTROL MAINTENANCE AND INSPECTION.**

- (A) For a commercial or multifamily development, the owner shall maintain a required water quality control in accordance with the maintenance standards in the Environmental Criteria Manual. The city's Watershed Protection and Development Review Department shall inspect each water quality control at least once a year.
- (B) For a single-family or duplex residential development, the city's Watershed Protection and Development Review Department shall maintain a required water quality control if the water quality control has been accepted by the city. For a water quality control to be accepted by the city, it must meet the

requirements of Section 30-5-234 (*Fiscal Security In The Barton Springs Zone*) and the Environmental Criteria Manual, as applicable.

*Source: City Code Section 25-8-231.*

**§ 30-5-232 DEDICATED FUND.**

- (A) The city's director of finance 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 single office record the subdivision plat, whichever occurs first; or
  - (2) for development that requires a site plan, when the site plan is approved.
- (C) The director shall report annually to the council regarding the status of the fund and the monitoring and maintenance program described in this section.

*Source: City Code Section 25-8-232.*

**§ 30-5-233 BARTON SPRINGS ZONE OPERATING PERMIT.**

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

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

*Source: City Code Section 25-8-233.*

**§ 30-5-234 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 accordance 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 accordance with the approved design by:
    - (a) the applicant's delivery of a certified engineering concurrence letter; and
    - (b) a report from a city inspector.

*Source: ~~City~~ Code Section 25-8-234.*

**ARTICLE 7. REQUIREMENTS IN ALL WATERSHEDS.**

**Division 1. Critical Water Quality Zone Restrictions.**

**§ 30-5-261 CRITICAL WATER QUALITY ZONE DEVELOPMENT.**

- (A) A fence that does not obstruct flood flows is permitted in a critical water quality zone.
- (B) A public or private park, golf course, or open spaces, other than a parking lot, is permitted in a critical water quality zone if a program of fertilizer, pesticide, and herbicide use is approved by the director.
  - (1) In a water supply rural watershed or the Barton Springs Zone, park development is limited to hiking, jogging, or walking trails and outdoor facilities, and excludes stables and corrals for animals.
  - (2) In the Barton Springs Zone, a master planned park that is reviewed by the land use commission and approved by the council may include recreational development other than that described in Subsection (B)(1).
- (C) Along Lake Travis, Lake Austin, or Town Lake:
  - (1) a boat dock, pier, wharf, or marina and necessary access and appurtenances, is permitted in a critical water quality zone; and
  - (2) approval by the director of chemicals used to treat building materials that will be submerged in water is required before a permit may be issued or a site plan released.
- (D) In the Barton Springs Zone:
  - (1) a boat dock, pier, wharf, or marina and necessary access and appurtenances, or a pedestrian bridge, or bicycle or golf cart path, is permitted in a critical water quality zone; and
  - (2) approval by the director of chemicals used to treat building materials that will be submerged in water is required before a permit may be issued or a site plan released.
- (E) A utility line may cross a critical water quality zone. In the Barton Springs Zone, approval by the director is required for a utility line crossing.

- (F) Except in the Barton Springs Zone, detention basins and floodplain alterations are permitted in the critical water quality zone if the requirements of Chapter 30-4 (*Drainage*) and the other provisions of this subchapter are met.

*Source: City Code Section 25-8-261.*

**§ 30-5-262 CRITICAL WATER QUALITY ZONE STREET CROSSINGS.**

- (A) In an urban watershed, an arterial, collector, or residential street may cross a critical water quality zone of any waterway.
- (B) This subsection applies in a watershed other than an urban watershed.
- (1) A major waterway critical water quality zone may be crossed by an arterial street identified in the Transportation Plan.
  - (2) An intermediate waterway critical water quality zone may be crossed by an arterial or collector street, except:
    - (a) a collector street crossing must be at least 2,500 feet from a collector or arterial street crossing on the same waterway; or
    - (b) in a water supply suburban or water supply rural watershed, or the Barton Springs Zone, a collector street crossing must be at least one mile from a collector or arterial street crossing on the same waterway.
  - (3) A minor waterway critical water quality zone may be crossed by an arterial or collector street, except:
    - (a) a collector street crossing must be at least 1,000 feet from a collector or arterial street crossing on the same waterway; or
    - (b) in a water supply suburban or water supply rural watershed, or the Barton Springs Zone, a collector street crossing must be at least 2,000 feet from a collector or arterial street crossing on the same waterway.
  - (4) A minor waterway critical water quality zone may be crossed by a residential or commercial street if necessary to provide access to property that cannot otherwise be safely accessed.
- (C) Except in the Barton Springs Zone, the director may vary the requirements of Subsection (B).

*Source: City Code Section 25-8-262.*

## **Division 2. Protection For Special Features.**

### **§ 30-5-281 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, or 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 requirements for critical environmental feature buffer zones.
  - (1) A buffer zone is established around each critical environmental feature described in this subchapter.
    - (a) Except as provided in Subsection (C)(1)(b), the width of the buffer zone is 150 feet from the edge of the critical environmental feature.
    - (b) For a point recharge feature, the buffer zone coincides with the topographically defined catchment basin, except that the width of the buffer zone from the edge of the critical environmental feature is:
      - (i) not less than 150 feet; and
      - (ii) not more than 300 feet.
  - (2) Within a buffer zone described in this subsection:
    - (a) the natural vegetative cover must be retained to the maximum extent practicable;
    - (b) construction is prohibited; and
    - (c) wastewater disposal or irrigation is prohibited.
  - (3) If located at least 50 feet from the edge of the critical environmental feature, the prohibition of Subsection (C)(2)(b) does not apply to:
    - (a) a yard or hiking trail; or

(b) a recharge basin approved under Section 30-5-213 (*water Quality Control Standards*) that discharges to a point recharge feature.

(D) The director may grant an administrative variance to a requirement of this section. **An** applicant for a variance must demonstrate that the proposed measures preserve all characteristics of the critical environmental feature.

*Source: City Code Section 25-8-281.*

### **§ 30-5-282 WETLAND PROTECTION.**

(A) Wetlands must be protected in all watersheds except in the central business area.

(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 a wetlands for water quality controls.

(C) The director 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.

*Source: City Code Section 25-8-282.*

### **Division 3. Construction On Slopes.**

### **§ 30-5-301 CONSTRUCTION OF A ROADWAY OR DRIVEWAY.**

(A) A person 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:

- (1) at least two contiguous acres with a gradient of 15 percent or less; or
- (2) building sites for at least five residential units.

- (B) For construction described in this section, 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.

*Source: City Code Section 25-8-301.*

**§ 30-5-302 CONSTRUCTION OF A BUILDING OR PARKING AREA.**

(A) A person may not construct:

- (1) a building or parking structure on a slope with a gradient of more than 25 percent; or
- (2) except for a parking structure, a parking area on a slope with a gradient of more than 15 percent.

(B) A person 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 requirements of this subsection are met.

- (1) Impervious cover on slopes with a gradients of more than 15 percent may not exceed 10 percent of the total area of the slopes.
- (2) 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.
- (3) Hillside vegetation may not be disturbed except as necessary for construction, and disturbed areas must be restored with native vegetation.
- (4) For construction described in this section, 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.

*Source: City Code Section 25-8-302.*

**§ 30-5-303. SUBDIVISION NOTES.**

- (A) 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 requirements of Subsection (B).
- (B) 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:

(1) identifying the lot; and

(2) stating the impervious cover and construction requirements for the lot.

*Source: City Code Section 25-8-303.*

#### **§ 30-5-304 APPLICABILITY.**

This division does not apply in an urban watershed.

*Source: ~~City~~ Code Section 25-8-304.*

### **Division 4. Clearing.**

#### **§ 30-5-321 CLEARING OF VEGETATION.**

(A) Clearing of vegetation is prohibited unless the director determines that the clearing:

(1) is in accordance with a subdivision construction plan;

(2) is permitted under this section or Section 30-5-322 (*Clearing For A Roadway*); or

(3) is not development, as that term is defined in Chapter 30-1 (*General Requirements and Procedures*).

(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) A person 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 final plat approval.

*Source: City Code Section 25-8-321*

#### **§ 30-5-322 CLEARING FOR A ROADWAY.**

(A) A person may clear an area for road construction after final plat approval under 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 single office shall notify the applicant in writing that the city or county 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.

*Source: City Code Section 25-8-322.*

**§ 30-5-323 TEMPORARY STORAGE AREAS; TOPSOIL PROTECTION.**

- (A) The 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 accordance with the Environmental Criteria Manual.
- (B) During and after site grading operations, the topsoil must be protected and vegetation left in place to the maximum extent practicable.

*Source: City Code Section 25-8-323.*

**Division 5. Cut, Fill, and Spoil.**

**§ 30-5-341 CUT REQUIREMENTS.**

- (A) Cuts on a tract of land may not exceed four feet of depth, except:
- (1) in an urban watershed;
  - (2) in a roadway right-of-way;

- (3) for construction of a building foundation;
- (4) for utility construction, if the area is restored to natural grade;
- (5) for a wastewater drain field;
- (6) in a state-permitted sanitary landfill or a sand or gravel excavation located in the extraterritorial jurisdiction, if
  - (a) the cut is not in a critical water quality zone;
  - (b) the cut does not alter a 100-year floodplain;
  - (c) the landfill or excavation has an erosion and restoration plan approved by the single office; and
  - (d) all other applicable City Code and County 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 **30-5-322** (*Clearing For A Roadway*).

*Source: City Code Section 25-8-341.*

### **§ 30-5-342 FILL REQUIREMENTS.**

- (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 single office; and

(d) all other applicable City Code and County 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 30-5-322 (*Clearing For A Roadway*).

*Source: City Code Section 25-8-342.*

**§ 30-5-343 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 director may grant an environmental variance to the limitation of Subsection (A) after determining that use of the spoil provides a necessary public benefit. Necessary public benefits include:

(1) roadways;

(2) stormwater detention facilities;

(3) public or private park sites; and

(4) building sites that comply with Section 30-5-341 (*Cut Requirements*), Section 30-5-342 (*Fill Requirements*), and Chapter 30-4 (*Drainage*).

(C) 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.

(D) A spoil disposal site and an access route shall be restored and revegetated in accordance with the Environmental Criteria Manual.

*Source: City Code Section 25-8-343.*

## Division 6. Other Restrictions.

### § 30-5-361 WASTEWATER RESTRICTIONS.

- (A) A wastewater line is prohibited in a critical water quality zone, except for a necessary crossing.
- (1) The land use commission may grant a variance to the prohibition of this subsection. **An** applicant for a variance must provide an environmental assessment evaluating the effects of alternative sewer alignments.
  - (2) Except for a necessary crossing, a wastewater line in a critical water quality zone must be located outside the two-year flood plain unless approved by council.
- (B) For a commercial development in a water supply rural watershed, a wastewater disposal area may not be located in the 40 percent buffer zone.
- (C) Development for a wastewater disposal system is not permitted in a critical water quality zone.
- (D) A package wastewater treatment plant with a capacity of 5,000 gallons a day or more must provide at least:
- (1) 100 days of storage capacity; or
  - (2) if using subsurface effluent disposal, 48 hours of storage capacity.

*Source: City Code Section 25-8-361.*

*Comment: Modified to be consistent with state law and the county's on-site sewage facility authority.*

### § 30-5-362 STORM SEWER DISCHARGE.

A certificate of occupancy may not be issued for development subject to this subchapter unless the development is in compliance with City Code Chapter 4-5, Article 5 (*Discharges To Storm Sewers Or Watercourses*).

*Source: City Code Section 25-8-362.*

**§ 30-5-363 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.

Source: ~~City~~ Code Section 25-8-363.

**ARTICLE 8. SUBURBAN WATERSHED REQUIREMENTS.**

**§ 30-5-391 APPLICABILITY; COMPLIANCE.**

- (A) This article applies to development in a suburban watershed.
- (B) A person who develops in a suburban watershed must comply with the requirements of this article.

Source: ~~City~~ Code Section 25-8-391.

**§ 30-5-392 CRITICAL WATER QUALITY ZONE.**

Development is prohibited in a critical water quality zone, except as provided in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*).

Source: City Code Section 25-8-392.

**§ 30-5-393 WATER QUALITY TRANSITION ZONE.**

- (A) In a water quality transition zone, the impervious cover of the land area of a site may not exceed 30 percent. In determining land area, land in the 100 year floodplain is excluded.
- (B) Water quality controls may be located in a water quality transition zone.

Source: City Code Section 25-8-393.

**§ 30-5-394 UPLANDS ZONE.**

- (A) This section applies to development in an uplands zone. Impervious cover limits in this section are expressed as percentages of net site area.

(B) This subsection applies in the extraterritorial jurisdiction and in the portions of the Lake, Rattan, and Brushy Creek watersheds that are in the zoning jurisdiction.

(1) Impervious cover for a single-family residential use with a minimum lot size of 5,750 square feet may not exceed:

(a) 45 percent; or

(b) if development intensity is transferred under Section 30-5-395 (*Transfer Of Development Intensity*), 50 percent.

(2) Impervious cover for a duplex or single-family residential use with a lot smaller than 5,750 square feet in size may not exceed:

(a) 55 percent; or

(b) if development intensity is transferred under Section 30-5-395 (*Transfer Of Development Intensity*), 60 percent.

(3) Impervious cover for a multifamily residential use may not exceed:

(a) 60 percent; or

(b) if development intensity is transferred under Section 30-5-395 (*Transfer Of Development Intensity*), 65 percent.

(4) Impervious cover for a commercial use may not exceed:

(a) 65 percent; or

(b) if development intensity is transferred under Section 30-5-395 (*Transfer Of Development Intensity*), 70 percent.

(C) This subsection applies in the portion of the zoning jurisdiction that is outside the Lake, Rattan, and Brushy Creek watersheds.

(1) Impervious cover for a single-family residential use with a minimum lot size of 5,750 square feet may not exceed:

(a) 50 percent; or

(b) if development intensity is transferred under Section 30-5-395 (*Transfer Of Development Intensity*), 60 percent.

(2) Impervious cover for a duplex or single-family residential use with a lot smaller than 5,750 square feet in size may not exceed:

- (a) 55 percent; or
  - (b) if development intensity is transferred under Section 30-5-395 (*Transfer Of Development Intensity*), 60 percent.
- (3) Impervious cover for a multifamily residential use may not exceed:
- (a) 60 percent; or
  - (b) if development intensity is transferred under Section 30-5-395 (*Transfer Of Development Intensity*), 70 percent.
- (4) Impervious cover for a commercial use may not exceed:
- (a) 80 percent; or
  - (b) if development intensity is transferred under Section 30-5-395 (*Transfer Of Development Intensity*), 90 percent.

Source: City Code Section 25-8-394.

**§ 30-5-395 TRANSFER OF DEVELOPMENT INTENSITY.**

- (A) **An** applicant who complies with a provision of this subsection qualifies for the development intensity transfer described in the provision.
- (1) For each acre of land in a critical water quality zone that an applicant dedicates in fee simple to the city or county, the applicant may transfer 20,000 square feet of impervious cover to an uplands zone. Land dedicated under this subsection may also be credited toward the parkland dedication requirements of Chapter 30-2, Article 3, Division 5 (*Parkland Dedication*).
  - (2) For each acre of land in the water quality transition zone that an applicant leaves undeveloped and undisturbed and does not include in impervious cover calculations elsewhere, the applicant may transfer 20,000 square feet of impervious cover to the uplands zone.
  - (3) For each acre of land in a water quality transition zone that an applicant uses for a golf course or other recreational use, restores using predominantly native plants and grasses, and provides a plan for minimizing the use and effect of pesticides, herbicides and fertilizers, the applicant may transfer 17,000 square feet of impervious cover to an uplands zone.

- (4) For each acre of land in a water quality transition zone that an applicant uses for wastewater disposal, the applicant may transfer 10,000 square feet of impervious cover to an uplands zone.
  - (5) For each acre of land in an uplands zone that is located in the buffer zone of a critical environmental feature and that **an** applicant leaves natural and undisturbed, the applicant may transfer 20,000 square feet of impervious cover to an uplands zone. The buffer area may be included in the net site area calculations for the uplands zone.
  - (6) For each acre of land in an uplands zone that an applicant uses for wastewater irrigation, restricts against future development, and leaves in a natural state, other than for necessary irrigation lines and tailwater control berms, the applicant may transfer 20,000 square feet of impervious cover to **an** uplands zone.
- (B) An applicant who qualifies for a development intensity transfer under Subsection (A) must comply with requirements of this subsection to effect the transfer.
- (1) An applicant may transfer development intensity to a receiving tract that is not more than one mile from 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.
  - (2) An applicant must concurrently plat the transferring and receiving tracts and must transfer all development intensity at that time.
  - (3) **An** applicant must note the development intensity transfer on the plats of the transferring and receiving tracts, in a manner determined by the single office.
  - (4) **An** applicant must file in the deed records a restrictive covenant, approved by the city attorney and county attorney, that runs with the transferring tract and describes the development intensity transfer.

*Source: City Code Section 25-8-395.*

## **ARTICLE 9. WATER SUPPLY SUBURBAN WATERSHED REQUIREMENTS.**

### **§ 30-5-421 APPLICABILITY; COMPLIANCE.**

- (A) This article applies to development in a water supply suburban watershed.

- (B) A person who develops in a water supply suburban watershed must comply with the requirements of this article.

*Source: City Code Section 25-8-421.*

**§ 30-5-422 CRITICAL WATER QUALITY ZONE.**

Development is prohibited in a critical water quality zone, except as provided in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*).

*Source: City Code Section 25-8-422.*

**§ 30-5-423 WATER QUALITY TRANSITION ZONE.**

- (A) Development is prohibited in a water quality transition zone that lies over the South Edwards Aquifer recharge zone, except for development described in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*).
- (B) 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.
- (C) Water quality controls for development in an uplands zone or water quality transition zone may not be located in a water quality transition zone.

*Source: City Code Section 25-8-423*

**§ 30-5-424 UPLANDS ZONE.**

- (A) This section applies to development in an uplands zone. Impervious cover limits in this section are expressed as percentages of net site area.
- (B) Impervious cover for a duplex or single-family residential use may not exceed:
  - (1) 30 percent; or
  - (2) if development intensity is transferred under Section 30-5-425 (*Transfer Of Development Intensity*), 40 percent.
- (C) Impervious cover for a commercial or multifamily residential use may not exceed:
  - (1) 40 percent; or

- (2) if development intensity is transferred under Section 30-5-425 (*Transfer Of Development Intensity*), 55 percent.

*Source: City Code Section 25-8-424.*

**§ 30-5-425 TRANSFER OF DEVELOPMENT INTENSITY.**

- (A) **An** applicant who complies with a provision of this section qualifies for the development intensity transfer described in the provision.
- (1) For each acre of land in a critical water quality zone that an applicant dedicates in fee simple to the city or county, the applicant may transfer 15,000 square feet of impervious cover to an uplands zone. Land dedicated under this subsection may also be credited toward the parkland dedication requirements of Chapter 30-2, Article 3, Division 5 (*Parkland Dedication*).
  - (2) For each acre of land in the water quality transition zone that an applicant leaves undeveloped and undisturbed and does not include in impervious cover calculations elsewhere, the applicant may transfer 15,000 square feet of impervious cover to the uplands zone.
  - (3) For each acre of land in a water quality transition zone that an applicant uses for a golf course or other recreational use, restores using predominantly native plants and grasses, and provides a plan for minimizing the use and effect of pesticides, herbicides and fertilizers, the applicant may transfer 12,750 square feet of impervious cover to an uplands zone.
  - (4) For each acre of land in a water quality transition zone that an applicant uses for wastewater disposal, the applicant may transfer 7,500 square feet of impervious cover to an uplands zone.
  - (5) For each acre of land in an uplands zone that is located in the buffer zone of a critical environmental feature **and** that **an** applicant leaves natural and undisturbed, the applicant may transfer 15,000 square feet of impervious cover to an uplands zone. The buffer area may be included in the net site area calculations for the uplands zone.
  - (6) For each acre of land in an uplands zone that **an** applicant uses for wastewater irrigation, restricts against future development, and leaves in a natural state, other than for necessary irrigation lines and tailwater control berms, the applicant may transfer 15,000 square feet of impervious cover to an uplands zone.

(B) **An** applicant who qualifies for a development intensity transfer under Subsection (A) must comply with requirements of this subsection to effect the transfer.

- (1) **An** applicant may transfer development intensity to a receiving tract that is not more than one mile from 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.
- (2) **An** applicant must concurrently plat the transferring and receiving tracts and must transfer all development intensity at that time.
- (3) **An** applicant must note the development intensity transfer on the plats of the transferring and receiving tracts, in a manner determined by the single office.
- (4) An applicant must file in the deed records a restrictive covenant, approved by the city attorney and county attorney, that runs with the transferring tract and describes the development intensity transfer.

*Source: City Code Section 25-8-425.*

## **ARTICLE 10. WATERSUPPLY RURAL WATERSHED REQUIREMENTS.**

### **§ 30-5-451 APPLICABILITY; COMPLIANCE.**

- (A) This article applies to development in a water supply rural watershed
- (B) A person who develops in a water supply rural watershed must comply with the requirements of this article.

*Source: City Code Section 25-8-451.*

### **§ 30-5-452 CRITICAL WATER QUALITY ZONE.**

Development is prohibited in a critical water quality zone, except as provided in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*).

*Source: City Code Section 25-8-452.*

**§ 30-5-453 WATER QUALITY TRANSITION ZONE.**

- (A) Development is prohibited in a water quality transition zone that lies over the South Edwards Aquifer recharge zone, except for development described in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*).
- (B) Development is prohibited in a water quality transition zone that lies outside the South Edwards Aquifer recharge zone, except for:
  - (1) development described in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*);
  - (2) streets;
  - (3) drainage facilities;
  - (4) parks or open spaces; and
  - (5) duplex or single-family residential development with a minimum lot size of two acres and a density of not more than one unit for each three acres, excluding acreage in the 100 year flood plain.
- (C) A lot that lies within a critical water quality zone must also include at least two acres in a water quality transition zone.
- (D) Water quality controls may not be located in a water quality transition zone.

*Source: City Code Section 25-8-453.*

**§ 30-5-454 UPLANDS ZONE.**

- (A) This section applies to development in an uplands zone. Density and impervious cover limits are based on net site area.
- (B) For a duplex or single family residential use, density may not exceed:
  - (1) one unit for each two acres, with a minimum lot size of three-quarters acre; or
  - (2) if development intensity is transferred under Section 30-5-455 (*Transfer Of Development Intensity*), one unit for each acre, with a minimum lot size of one-half acre.
- (C) For a cluster housing use, density may not exceed:
  - (1) one unit for each acre; or

(2) if development intensity is transferred under Section 30-5-455 (*Transfer Of Development Intensity*), two units for each acre.

(D) This subsection applies to a commercial or multifamily use.

(1) Impervious cover may not exceed:

(a) 20 percent; or

(b) if development intensity is transferred under Section 30-5-455 (*Transfer ~~Of~~ Development Intensity*), 25 percent.

(2) At least 40 percent 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 the buffer must receive overland drainage. 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.

*Source: City Code Section 25-8-454.*

#### **§ 30-5-455 TRANSFER OF DEVELOPMENT INTENSITY.**

(A) **An** applicant who complies with a provision of this section qualifies for the development intensity transfer described in the provision.

(1) For each acre of land in a critical water quality zone that an applicant dedicates in fee simple to the city, county, or another entity approved by the single office, the applicant may transfer one single-family residential housing unit or 6,000 square feet of impervious cover for commercial or multifamily development to an uplands zone. Land dedicated under this subsection may also be credited toward the parkland dedication requirements of Chapter 30-2, Article 3, Division 5 (*Parkland Dedication*).

(2) For each acre of land in the water quality transition zone that an applicant leaves undeveloped and undisturbed and does not include in impervious cover calculations elsewhere, the applicant may transfer one single-family residential housing unit or 6,000 square feet of impervious cover for commercial or multifamily development to the uplands zone.

(3) For each acre of land in a water quality transition zone that an applicant uses for a golf course or other recreational use, restores using predominantly native plants and grasses, and provides a plan for minimizing the use and effect of pesticides, herbicides and fertilizers, the

applicant may transfer 85 percent of a single-family residential housing unit or 5,100 square feet of impervious cover for commercial or multifamily development to an uplands zone.

- (4) For each acre of land in a water quality transition zone that an applicant uses for wastewater disposal, the applicant may transfer 50 percent of a single-family residential housing unit or 3,000 square feet of impervious cover for commercial or multifamily development to an uplands zone.
  - (5) For each acre of land in an uplands zone that is located in the buffer zone of a critical environmental feature and that an applicant leaves natural and undisturbed, the applicant may transfer one single-family residential housing unit or 6,000 square feet of impervious cover for commercial or multifamily development to an uplands zone. The buffer area may be included in the net site area calculations for the uplands zone.
  - (6) For each acre of land in *an* uplands zone that an applicant uses for wastewater irrigation, restricts against future development, and leaves in a natural state, other than for necessary irrigation lines and tailwater control berms, the applicant may transfer one single-family residential housing unit or 6,000 square feet of impervious cover for commercial or multifamily development to an uplands zone.
- (B) An applicant who qualifies for a development intensity transfer under Subsection (A) must comply with requirements of this subsection to effect the transfer.
- (1) **An** applicant may transfer development intensity to a receiving tract that is not more than one mile from 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.
  - (2) **An** applicant must concurrently plat the transferring and receiving tracts and must transfer all development intensity at that time.
  - (3) **An** applicant must note the development intensity transfer on the plats of the transferring and receiving tracts, in a manner determined by the single office:
  - (4) **An** applicant must file in the deed records a restrictive covenant, approved by the city attorney and county attorney, that runs with the transferring tract and describes the development intensity transfer.

*Source: City Code Section 25-8-455.*

**ARTICLE 11. BARTON SPRINGS ZONE REQUIREMENTS.**

**§ 30-5-481 APPLICABILITY; COMPLIANCE.**

- (A) This article applies to development in the Barton Springs Zone.
- (B) A person who develops in the Barton Springs Zone must comply with the requirements of
  - (1) this article; and
  - (2) Article 12 (*Save Our Springs Initiative*).

*Source: City Code Section 25-8-481.*

**§ 30-5-482 CRITICAL WATER QUALITY ZONE.**

Development is prohibited in a critical water quality zone, except as provided in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*).

*Source: City Code Section 25-8-482.*

**§ 30-5-483 WATER QUALITY TRANSITION ZONE.**

- (A) Development is prohibited in a water quality transition zone that lies over the Edwards Aquifer recharge zone, except for:
  - (1) development described in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*); and
  - (2) minor drainage facilities or water quality controls that comply with the floodplain modification guidelines of the Environmental Criteria Manual.
- (B) Development is prohibited in a water quality transition zone that lies outside the Edwards Aquifer recharge zone, except **for**:
  - (1) development described in Article 7, Division 1 (*Critical Water Quality Zone Restrictions*);
  - (2) minor drainage facilities or water quality controls that comply with the floodplain modification guidelines of the Environmental Criteria Manual;
  - (3) streets;

- (4) duplex or single-family residential housing with a minimum lot size of two acres and a density of not more than one unit for each three acres, excluding acreage in the 100 year floodplain; and
- (5) vegetative filter strips.

*Source: City Code Section 25-8-483*

#### **§ 30-5-484 TRANSFER OF DEVELOPMENT INTENSITY.**

Development intensity may not be transferred in the Barton Springs Zone except as part of an adjustment under Section 30-5-518 (*Limited Adjustment To Resolve Possible Conflicts With Other Laws*).

*Source: City Code Section 25-8-484*

### **ARTICLE 12. SAVE OUR SPRINGS INITIATIVE.**

#### **§ 30-5-511 TITLE AND PURPOSE.**

- (A) This article, 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 article codifies the Save Our Springs Initiative Petition Ordinance as adopted by popular vote on August 8, 1992 and amended by the Council.

*Source: City Code Section 25-8-511*

#### **§ 30-5-512 AMENDMENT.**

This article shall not be repealed or amended by City Council until two years after the effective date of the SOS ordinance, August 10, 1992. Thereafter, this article may be repealed or amended only by an affirmative vote of a three-quarters majority of the City Council.

*Source: City Code Section 25-8-512.*

#### **§ 30-5-513 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 article are necessary to protect this irreplaceable natural resource.

*Source: City Code Section 25-8-513.*

**§ 30-5-514 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 shall 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, biochemical oxygen demand, total lead, cadmium, fecal coliform, fecal streptococci, 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 13-7-23 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.

*Source: City Code Section 25-8-514.*

**§ 30-5-515 NO EXEMPTIONS, SPECIAL EXCEPTIONS, WAIVERS OR VARIANCES.**

The requirements of this article are not subject to the exemptions, special exceptions, waivers, or variances allowed by Chapter 30-1 (*General Provisions And Procedures*). Adjustments to the application of this article to a specific project may be

granted only as set out in Section 30-5-518 (*Limited Adjustment To Resolve Possible Conflicts With Other Laws*) below.

*Source: City Code Section 25-8-515.*

**§ 30-5-516 APPLICATION TO EXISTING TRACTS, PLATTED LOTS, AND PUBLIC SCHOOLS.**

- (A) This article 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 article 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 article does not apply to the replacement of development which is removed as a result of right-of-way condemnation.

*Source: City Code Section 25-8-516.*

**§ 30-5-517 EXPIRATION OF PRIOR APPROVALS.**

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 article expires one year after the effective date of this article, 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 article shall expire one year after the effective date of this article, 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 article or that is revised to comply with this article does not expire under Subsection (1) or (2) of this section and remains valid for the period otherwise established by law.

*Source: City Code Section 25-8-517.*

**§ 30-5-518 LIMITED ADJUSTMENT TO RESOLVE POSSIBLE CONFLICTS WITH OTHER LAWS.**

- (A) This article 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 article 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 article, 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 article 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.

*Source: City Code Section 25-8-518.*

**§ 30-5-519 CONSTRUCTION OF ORDINANCE.**

This article 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 article and any other ordinance, the provision which provides stronger water quality controls on development shall govern. If a word or term used in this article 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 article.

*Source: City Code Section 25-8-519.*

**§ 30-5-520 REDUCE RISK OF ACCIDENTAL CONTAMINATION.**

Within one year of the effective date of this article 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.

*Source: City Code Section 25-8-520.*

**§ 30-5-521 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.

*Source: City Code Section 25-8-521*

**§ 30-5-522 SEVERABILITY.**

If any provision, section, subsection, sentence, clause, or phrase of this article, 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 article shall not be affected by that invalidity; and all provisions of this article are severable for that purpose.

*Source: City Code Section 25-8-522.*

**§ 30-5-523 ADOPTION OF WATER QUALITY MEASURES.**

The adoption of this article 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.

*Source: City Code Section 25-8-523.*

**SUBCHAPTER B. TREE AND NATURAL AREA PROTECTION**

***ARTICLE 1. GENERAL PROVISIONS.***

**§ 30-5-601 APPLICABILITY.**

This subchapter applies in the city's zoning jurisdiction.

*Source: City Code Section 25-8-601.*

**§ 30-5-602 DEFINITIONS.**

In this subchapter:

- (1) OWNER includes a lessee.
- (2) PROTECTED TREE means a tree with a circumference of 60 inches or more, measured four and one-half feet above natural grade.
- (3) REMOVAL means an act that causes or may be reasonably expected to cause a tree to die, including:
  - (a) uprooting;
  - (b) severing the main *trunk*;
  - (c) damaging the root system; and
  - (d) excessive pruning.

*Source: City Code Section 25-8-602.*

**§ 30-5-603 ADMINISTRATION.**

- (A) A city arborist, appointed by the director, shall implement this subchapter
- (B) The director shall adopt administrative rules in accordance with Section 30-1-61 (*Administrative Rules*) to:
  - (1) protect trees against damage during development;
  - (2) identify actions that **will** constitute removal; **and**
  - (3) identify the root areas that require protection against soil compaction or the effects of impervious paving.

*Source: City Code Section 25-8-603*

**§ 30-5-604 DEVELOPMENT APPLICATION REQUIREMENTS.**

For an application for preliminary plan or final plat approval that proposes the removal of a protected tree, the city arborist must review the application and make a recommendation before the application may be administratively approved or presented to the land use commission or city council.

*Source: City Code Section 25-8-604.*

**§ 30-5-605 WAIVER AND MODIFICATION OF CITY AND COUNTY REQUIREMENTS.**

- (A) If enforcement of a city or county department policy, rule, or design standard will result in removal of a protected tree, the director may request that the responsible city or county department waive or modify the policy, rule, or design standard to the extent necessary to save the tree.
- (B) The responsible city or county 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 managing officials shall resolve differences of opinion between the director and another city or county department under this section.

*Source: City Code Section 25-8-605.*

**ARTICLE 2. PROTECTED TREES.**

**§ 30-5-621 PERMIT REQUIRED FOR REMOVAL OF PROTECTED TREES; EXCEPTIONS.**

- (A) Except as otherwise provided in this section, a person may not remove a protected tree unless the director has issued a permit for the removal under this article.
- (B) A person may, without a permit, remove a damaged protected tree that is a 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.
- (C) A person may, without a permit, remove a protected tree if the tree is identified for removal on an approved preliminary plan or site plan.
- (D) A person may, without a permit, remove a protected tree if the tree is identified for removal in a capital improvement project if the project is approved by council.

*Source: ~~City~~ Code Section 25-8-621.*

**§ 30-5-622 APPLICATION FOR REMOVAL.**

- (A) For a protected tree located on public property or a public street or easement, an application for removal of the 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 protected tree located on private property, an application for removal of the 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 seriously diseased or is a safety hazard.
- (C) *An* application for removal of a protected tree must:
- (1) be filed with the director; and
  - (2) include the information prescribed by the Administrative Manual.
- (D) *An* application fee is not required if the application is for removal under Subsection 30-5-624(A)(3), (4), or (5) (*Approval Criteria*).

*Source: City Code Section 25-8-622.*

**§ 30-5-623 INSPECTION BY CITY ARBORIST.**

The city arborist shall promptly inspect a tree for which removal is requested.

*Source: City Code Section 25-8-623.*

**§ 30-5-624 APPROVAL CRITERIA.**

- (A) The director shall approve **an** application to remove a protected tree after determining that the tree:
- (1) prevents reasonable access to the property;
  - (2) prevents a reasonable use of the property;
  - (3) is a hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree;

- (4) is dying or dead;
- (5) 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; 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.
- (B) If an application filed by a political subdivision of the state is approved under Subsection (A)(2), the land use commission may, in its discretion, review the approval.
- (C) For an application to remove a protected tree located on private property, an applicant must request a variance from the Board of Adjustment if the variance would eliminate the reason for removal of the tree.
  - (1) The application to remove the protected tree may not be approved unless the variance is denied.
  - (2) An application fee is not required for a variance request required by this subsection.
  - (3) This subsection does not apply to an application that may be approved under Subsection (A)(3), (4), or (5).
- (D) The director may require mitigation, including the planting of replacement trees, as a condition of application approval. A removal permit may not be issued until the applicant satisfies the condition or posts fiscal security to ensure performance of the condition within one year.

*Source: City Code Section 25-8-624.*

**§ 30-5-625 ACTION ON APPLICATION.**

- (A) The director shall approve or deny **an** application to remove a protected tree:
  - (1) not later than the 10th day after the application is filed; or

- (2) if a variance request is required by Subsection 30-5-624(C) (*Approval Criteria*), not later than the 55th day after the application is filed.
- (B) If a variance request is required by Subsection 30-5-624(C) (*Approval Criteria*), the director shall notify the applicant of the 55-day review period.
- (C) **An** application is automatically granted if the director does not deny the application before the expiration of the applicable deadline in Subsection (A).

*Source: City Code Section 25-8-625.*

### **§ 30-5-626 EFFECTIVE DATE AND EXPIRATION OF APPROVAL.**

- (A) Approval of an application to remove a protected tree is effective:
- (1) on the third day after it is granted; or
  - (2) immediately, if the application was approved under Subsection 30-5-624(A)(3), (4), or (5) (*Approval Criteria*).
- (B) **An** approval to remove a protected tree expires:
- (1) one year after its effective date; or,
  - (2) for a development described in Subsection 30-5-621(C) or (D) (*Permit Required For Removal Of Protected Trees; Exceptions*), when the development plan expires.

*Source: City Code Section 25-8-626.*

### **§ 30-5-627 APPEAL.**

**An** applicant may appeal the denial of **an** application to remove a protected tree to the land use commission.

*Source: City Code Section 25-8-627.*

## **ARTICLE 3. SHORELINE RELOCATION; LAKE FILL.**

### **§ 30-5-651 RELOCATION OF SHORELINE BETWEEN TOM MILLER DAM AND LONGHORN DAM.**

- (A) This section applies:
- (1) along the Colorado River;

- (2) between Tom Miller Dam and Longhorn Dam; and
  - (3) below a contour elevation of **435** feet above mean sea level.
- (B) City council approval is required to relocate existing earth material in the area described in Subsection (A).
- (C) A person may request approval under this section by filing an application with the council that includes a plan showing the proposed layout of the relocation and a legal description of the property.
- (D) The applicant must demonstrate to the council that:
- (1) approving the application will not:
    - (a) endanger a water supply, water supply system, storm or sanitary sewer facility, or other public utility facility;
    - (b) create a hazard to navigation or swimming;
    - (c) create a hazard to the safety; maintenance and operation of a dam, bridge, or other structure not owned by the applicant; and
    - (d) materially and adversely affect the use and enjoyment of other property on the Colorado River between the Tom Miller Dam and Longhorn Dam; and
  - (2) if similar applications were granted for all similarly situated properties, the water storage or flood capacity of the Colorado River basin would not be materially reduced.

*Source: City Code Section 25-8-651.*

**§ 30-5-652 FILLS AT LAKE AUSTIN, TOWN LAKE, AND DECKER LAKE.**

- (A) Approval by the Parks and Recreation Board is required to place fill in Lake Austin, Town Lake, or Lake Walter E. Long.
- (B) A person must file a written application with the Parks and Recreation Board for **an** approval under this section.

*Source: City Code Section 25-8-652.*