

ORDINANCE NO.

AN ORDINANCE GRANTING VARIANCES FROM CITY CODE SECTIONS 25-8-452 AND 25-8-454; AND ESTABLISHING AN ADMINISTRATIVE VARIANCE PROCESS FROM CITY CODE SECTIONS 25-8-301, 25-8-302, 25-8-341, AND 25-8-342 FOR DEVELOPMENT OF WATER TREATMENT PLANT NUMBER 4.

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

PART 1. In this ordinance:

- (A) DIRECTOR means the director of the Watershed Protection and Development Review Department.
- (B) WTP4 SITES means the sites for the Water Treatment Plant Number 4 plant, the raw water intake facility, and the pump station.
- (C) PLANT SITE means the area of land used for Water Treatment Plant Number 4, as described in attached Exhibit A.
- (C) RAW WATER SITE means the area of land used for the raw water intake facility to serve Water Treatment Plant Number 4, as described in attached Exhibit B.
- (D) PUMP SITE means the area of land used for the raw water pump station to serve Water Treatment Plant Number 4, as described in attached Exhibit C.

PART 2. The variances granted in this ordinance and the administrative variance process established in this ordinance become effective only after the City Attorney files in the Travis County Official Public Records a document restricting from development, except that appropriate for conservation purposes, the property known as the Bull Creek site, as shown in Exhibit D. The document will not impair the ability of the City to transfer ownership of the site in the future, will be subject to existing easements, and will allow the construction, maintenance, repair, and replacement of transmission and distribution lines necessary to serve WTP4 sites only if the transmission and distribution lines are located at least 20 feet below the base of the Edwards Formation with no surface disturbance during construction, maintenance, repair or replacement activities.

PART 3. A variance is granted from City Code section 25-8-452 (*Critical Water Quality Zone*) for the Raw Water Site to allow construction of the raw water intake facility in the critical water quality zone.

PART 4. Variances are granted from City Code section 25-8-454(D) (*Uplands Zone*) to provide:

- (1) for the Plant Site, impervious cover may exceed 20 percent, but may not exceed 50 percent net site area; at least 25 percent of the Plant Site must be retained in or restored to its natural state to serve as a contiguous buffer to receive overland drainage; and
- (2) for the Pump Site, impervious cover may exceed 20 percent, but may not exceed 50 percent net site area; at least 25 percent of the Pump Site must be retained in or restored to its natural state to serve as a contiguous buffer to receive overland drainage.

PART 5. An administrative variance process is established allowing the director to grant variances from certain City Code provisions for WTP4 sites. The director may grant variances from:

- (A) Section 25-8-301 (*Construction of a Roadway or Driveway*), to allow construction of driveways on slopes greater than 15 percent on the Plant Site;
- (B) Section 25-8-302 (*Construction of a Building or Parking Area*), to allow construction of a building or parking structure on slopes greater than 25 percent and to allow a parking area on slopes greater than 15 percent on the Plant Site and the Pump Site;
- (C) Section 25-8-341 (*Cut Requirements*), to allow:
 - (1) cuts to exceed four feet but not to exceed 30 feet of depth on the Plant Site; and
 - (2) cuts to exceed four feet, but not to exceed 60 feet of depth on the Pump Site; and
- (D) Section 25-8-342 (*Fill Requirements*), to allow:
 - (1) fill to exceed four feet but not to exceed 40 feet of depth on the Plant Site; and

- 1 (2) fill to exceed four feet, but not to exceed 10 feet of depth on the Pump
2 Site.
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4 **PART 6.** The director may grant a variance under this ordinance if the director
5 determines that:

- 6 (A) the variance is the minimum departure from current code necessary to
7 achieve the project's needs.
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9 (B) the variance minimizes, to the extent possible, any harmful consequences to
10 the environment.
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12 (C) compliance with the code provision imposes an unacceptable engineering or
13 financial impact to the project.
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15 (D) to the extent possible, mitigation is provided that reduces the impact of the
16 proposed variance and meets the intent of the code provision; and to assist in
17 this determination, the director shall consider the Variance Request
18 Evaluation Criteria table approved by Environmental Board Resolution EB
19 111407 on November 14, 2007; and
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21 (E) granting the variance will result in water quality that is at least equal to the
22 water quality achievable without the variance.

23 **PART 7.** The director shall prepare written findings to support the grant or denial of a
24 variance request within 30 days under this ordinance and shall notify the Environmental
25 Board of each variance granted. The director shall submit a quarterly report to Council
26 and the Environmental Board that includes:

- 27 (A) A list of variances granted under this ordinance and their respective findings;
28 (B) the construction status of WTP4 sites granted a variance under this
29 ordinance; and
30 (C) the status of the review and permitting process for all WTP4 related projects.

31 **PART 8.** An interested party or the Environmental Board may appeal a decision by the
32 director under this ordinance to the City Manager. The provisions of City Code Chapter
25-1, Article 7, Division 1 (*Appeals*) establish the process for appeals under this
ordinance.

PART 9. This ordinance takes effect on the later of the following:

(A) May 26, 2008, or

(B) the date the Austin City Council adopts an amendment to Ordinance No. 040129-43 as necessary to apply the variances and variance process established in this ordinance to WTP 4 sites located within the Comanche Canyon Ranch Planned Unit Development.

PASSED AND APPROVED

_____, 2008

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Will Wynn
Mayor

APPROVED: _____

David Allan Smith
City Attorney

ATTEST: _____

Shirley A. Gentry
City Clerk