

ORDINANCE NO. 810514-S

AN ORDINANCE ADDING CHAPTER 41A, ARTICLE III TO THE CODE OF THE CITY OF AUSTIN; DECLARING CERTAIN FINDINGS OF FACT; PROVIDING STANDARDS FOR THE DEVELOPMENT OF LAND LOCATED WITHIN THE AQUIFER-RELATED WATERSHEDS OF SLAUGHTER, BEAR, LITTLE BEAR AND ONION CREEKS; SUSPENDING THE RULE REQUIRING THAT ORDINANCES BE READ ON THREE SEPARATE DAYS; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

PART 1. The Code of the City of Austin of 1967 is amended by adding a Chapter 41A, Article III to read as follows:

CHAPTER 41A
SPECIAL REQUIREMENTS FOR SUBDIVISIONS IN
ENVIRONMENTALLY SENSITIVE AREAS

ARTICLE III. AQUIFER-RELATED SLAUGHTER, BEAR, LITTLE BEAR, AND ONION CREEK WATERSHEDS

Division 301. General Provisions

Sec. 301.1 Findings and Objectives

(a) The City Council of the City of Austin, Texas, hereby makes the following findings:

The Edwards Aquifer contributes significantly to the domestic water supply of the City of Austin; and,

The City Council of the City of Austin, Texas, is the trustee of the natural environment of Barton Springs, the Edwards Aquifer, and the related watersheds for future generations of citizens of Austin and its environs; and,

Barton Springs, fed by the Edwards Aquifer, provide significant and irreplaceable recreational opportunities to the citizens of Austin and its environs; and,

Development activities in the aquifer-related watersheds can result in irreparable damage to the natural environment of, the recreational qualities of, and the quality of the water in, the Edwards Aquifer and Barton Springs; and,

The Slaughter, Bear, Little Bear, and Onion Creek Watersheds are facing development; and,

The continued economic growth of Austin is dependent on a pleasing natural environment, quality supplies of water and recreational opportunities in close proximity to Austin; and,

The Edwards Aquifer, Barton Springs and the aquifer-related watersheds must be protected in order to preserve the health, safety and welfare of the citizens of Austin and its environs; and,

It appears to the City Council of the City of Austin that development in those portions of the watersheds which are within the Edwards Aquifer Recharge Zone or the Edwards Aquifer Recharge Contributing Zone may adversely affect the Edwards Aquifer; and,

The City Council of the City of Austin is desirous of adopting appropriate development rules and regulations for the purpose of protecting the Edwards Aquifer as a facet of its overall program for the control and abatement of pollution or potential pollution resulting from generalized discharges of waste which are not traceable to a specific source such as storm sewer discharges and urban runoff from rainwater.

Sec. 301.2 Application of Article

(a) This article sets out special requirements for the subdivision of land located in the aquifer-related Slaughter, Bear, Little Bear, and Onion Creek Watersheds, as defined herein. A person wishing to subdivide land in this area must comply with both these special requirements and with the applicable requirements of Chapter 41 of this Code.

(b) In case of conflict between the requirements of this article and those of Chapter 41 or some other ordinance, the requirements of this article govern.

(c) The Director of Planning, in cooperation with and the directors of Public Works and Environmental Resource Management, shall design and administer a system, including necessary forms, that coordinates the requirements of both this article and Chapter 41, minimizes duplication of requirements and conflict between them, and facilitates the expeditious processing of subdivision applications.

Sec. 301.3 Burden of Proof

An applicant for subdivision approval under this article must establish that his/her plan and plat comply with the requirements of this article and with the applicable requirements of Chapter 41 of this Code.

Sec. 301.4 Definitions

(a) The definitions in Chapter 41 of this Code also apply to this article, insofar as they do not conflict with the definitions contained herein.

(b) In this article the following special terms have the following meanings:

"Aquifer-Related Watersheds" - All land area in the Slaughter, Bear, Little Bear, and Onion Creek watersheds that is within the five-mile extraterritorial jurisdiction of the City of Austin, and is within the Edwards Aquifer Recharge Zone or that naturally drains to, or is otherwise located upstream from, the Recharge Zone. The approximate boundaries of the aquifer-related watersheds are depicted on a map attached to this Article as Exhibit A. Copies of the map are available for inspection at the offices of the City Clerk, Planning Department, Public Works, Environmental Resource Management and the City/County Health Department. All questions concerning the exact boundary shall be determined by the Director of Public Works.

"Centerline of a Waterway" - The centerline of the waterway refers to existing topographically defined channels. If not readily discernible, the centerline shall be determined by (1st) the low flow line, or (2nd) the centerline of the 2-year flood plain.

"Commercial Lot" - Any lot not to be used as single or two-family residential, recreational, or open space.

"Critical Water Quality Zone" - Lands and waters as established in Sections 303.3(a) and 303.3(b).

"Development" - Buildings, roads, and other structures; construction; and excavation, dredging, grading, filling, and clearing or removing vegetation.

"Edwards Aquifer" - The water-bearing substrata also known as the Edwards and Associated Limestones Aquifer. It includes the following geological formations: Comanche Peak, Edwards, Kiamichi, and Georgetown.

"Edwards Aquifer Recharge Zone" - The interim boundaries of the recharge zone shall encompass all land over the Edwards Aquifer recharging the same, as determined by the outcrop of the geologic units comprising the Edwards Aquifer, including such areas overlain with quaternary terrace deposits. (This zone is shown in Exhibit A.) Permanent boundaries may be determined at a later date as part of a more comprehensive delineation of the entire recharge zone.

"Impervious Cover" - Roads, parking areas, buildings and other impermeable construction covering the natural land surface; this shall include, but not be limited to, all streets and pavement within the subdivision. "Percent impervious cover" is calculated as the area of impervious cover within a lot or subdivision divided by the total area within the perimeter of a lot or subdivision. Water quality basins, swales, and other conveyances for overland drainage shall not be calculated as impervious cover.

"Intermediate Waterway" - Any channel, creek, stream, branch, or watercourse existing prior to the effective date of this ordinance for surface water drainage that drains an area greater than 320 acres but less than 640 acres under predeveloped conditions.

"Major Waterway" - Any channel, creek, stream, branch, or watercourse existing prior to the effective date of this ordinance for surface water drainage that drains 640 acres or more under predeveloped conditions.

"Minor Waterway" - Any channel, creek, stream, branch or watercourse existing prior to the effective date of this ordinance for surface water drainage that drains an area greater than 64 acres but less than 320 acres under predeveloped conditions.

"Overland Flow" - Stormwater runoff that is not confined by any natural or man-made channel such as a creek, drainage ditch, storm sewer, or the like.

"Residence Time" - The average residence time of a basin is equal to the volume of the basin divided by the average rate of outflow.

"Uplands Zone" - All lands and waters that are not included within the Critical Water Quality Zone or the Water Quality Buffer Zone.

"Water Quality Buffer Zone" - Lands and waters as defined in Section 305.2 of this article.

Division 302. Subdivision Plan

Sec. 302.1 Planning Commission Approval Required

(a) Before subdividing land located in the aquifer-related watersheds, an applicant must obtain approval from the Planning Commission of the plan and plat as required by this article and by Chapter 41 of this Code.

(b) An applicant subdividing land for single-family or duplex residential-related uses, and in which the minimum lot size is less than one acre shall only be required to comply with the requirements of urban subdivisions as specified in Chapter 41 of this Code; provided, however, that the restrictions specified in Section 303.3 shall apply, and that the Critical Water Quality Zone be designated on all plans and final plats. Such applicants shall not be required to satisfy the requirements of Section 302.2 and 302.3 of this article.

Sec. 302.2 Preliminary Plan

In addition to satisfying the requirements of Chapter 41 of this Code, the preliminary plan must contain or be accompanied by, as applicable:

(a) A topographic map, with 5-foot contour intervals, meeting national map accuracy standards, showing:

(1) Each major, intermediate, and minor waterway, as defined herein; and each type of waterway shall be distinguished from the others;

(2) The 100-year and 25-year flood plains;

(3) The 2-year flood plains where needed to determine the Critical Water Quality Zone required by this article;

(4) Critical Water Quality Zone and Water Quality Buffer Zone as required by Sec. 303.3 and Sec. 305.2 of this article.

(5) Existing topographic features including but not limited to faults and fractures along waterways, and sinkholes.

(6) Location of all temporary and permanent runoff detention basins, constructed and altered waterways and other physical facilities to be installed to comply with the terms of this article.

(b) A report that includes the following items:

- (1) A description of existing topography;
- (2) General soil and vegetation characteristics;
- (3) General description of proposed changes to the site;
- (4) A general description of the temporary measures which shall be utilized for the control of erosion;
- (5) General sequencing of construction.
- (6) A description and calculation of the total percentage of proposed and existing impervious cover in the Water Quality Buffer Zone, and in the Uplands Zone, and for each commercial lot of a subdivision, in conformance with Sections 305.1 through 305.4 of this article.

(c) General plans for wastewater line installation shall be submitted with the preliminary plan and shall include: the use of minimum construction corridor widths, minimum use of blasting that might disturb subsurface faults and fractures, and the use of environmental protection measures and vegetative restoration as called for in Section 302.2(b).

(d) A registered professional engineer must certify that a preliminary plan is complete and that the technical data it contains are accurate before the Director of Planning may file it.

(e) Special notes or attachments as may be required by other sections of this article.

Sec. 302.3 Final Plat

In addition to satisfying the requirements of Sec. 41 of this Code, a plat must:

(a) Be submitted with the final erosion-sedimentation control plan and construction sequencing plan required by Section 303.2;

(b) Be submitted with a detailed drainage plan and street layout that comply with the requirements of this article;

(c) Show compliance with the applicable requirements of this article for control strategies;

(d) Identify all of the Critical Water Quality Zones and Water Quality Buffer Zones and all such areas with restrictions as required by this article and incorporate by reference the restrictions of this article applicable to these areas.

(e) Bear the certification of a registered professional engineer that the plat is complete and that the technical data submitted with it are accurate before the Director of Planning may accept for filing.

(f) Contain a note which incorporates by reference the terms and requirements of this article.

(g) Be accompanied by a fee of twenty dollars (\$20.00) per lot in the subdivision, such fee to be used for the purpose of funding a program for monitoring water quality in the aquifer-related watersheds.

(h) Be accompanied by a fee of eighty dollars (\$80.00) per lot in the subdivision if the percentage of impervious cover in the subdivision requires the installation of sedimentation/filtration facilities by the developer and the maintenance of the same by the City of Austin as provided by this Article, such fee to be used for the purpose of funding such maintenance program.

Division 303. Control Strategies -- Minimum Level of Performance

Sec. 303.1 Special Controls Required

In addition to satisfying the requirements of Chapter 41 of this Code, all developments of land within the aquifer-related watersheds shall comply with the provisions of this division.

Sec. 303.2 Construction Sequencing and Erosion Controls

(a) All developments shall submit erosion and sedimentation control plans and reports that shall include construction sequencing information.

(1) A general description shall be submitted with the preliminary plan application.

(2) A comprehensive and detailed plan and report shall be submitted with the final plat application. The report shall specify maintenance of controls. All items noted in the erosion control and construction sequencing plans shall also be included in the final construction plans. A copy of the report and plan shall be made available for the City of Austin Department of Public Works and 48 hours notice shall be given to same before actual construction begins.

a. The report shall include the following items:

1. Construction sequencing as it relates to placement, maintenance, removal of temporary erosion controls, and restoration measures. The sequencing plan schedules these items in the overall scheme of development.

2. A list of such temporary erosion controls and maintenance thereof.

3. Slope stabilization techniques to be employed.

4. Restoration plans including vegetative types and acceptability note for the City.

b. The erosion control and construction sequencing plan shall include the following items:

1. Location of temporary erosion controls with maintenance note. The plan shall show the physical details of the controls.

2. A construction sequencing list, including the timing of the use of various controls in relation to steps in the construction.

3. Restoration techniques and acceptability note.

(b) The development shall comply with the erosion control and restoration measures in the City of Austin Erosion and Sedimentation Control Manual, as approved by the City Council. Until the time that such controls are adopted by the City Council the interim guidelines shall be the Soil Conservation Service manual titled "Erosion and Sediment Control Guidelines for Developing Areas in Texas." In both cases, the judgment on the erosion controls and construction sequencing shall be made jointly by the Director of Public Works and the Director of the Office of Environmental Resource Management and shall be made within ten days of filing of the plan or plat. The provisions of Section 306.1 shall apply.

(c) Two days after written notice to the person holding approval of the plat or plan, modifications from the approved erosion control and construction sequencing plans may be made in the field if the City Inspector deems the controls or sequencing inappropriate or inadequate and has confirmed his/her findings with the Director of Public Works and the Director of the Office of Environmental Resource Management, and has written approval.

(d) The clearing of land shall conform to the following criteria:

(1) No right-of-way clearing or rough cutting shall be permitted before final plat approval by the Planning Commission. Limited clearing for soil testing and surveying may be allowed with a permit from the Public Works Department.

(2) No clearing or rough cutting for purposes other than those set forth in paragraph (1) above and for construction of temporary erosion and sedimentation controls as per approved plans shall be permitted until these controls are in place.

(3) Roadway clearing width within a subdivision shall not exceed twice the roadway surface width or the width of the dedicated right-of-way, whichever is less. Clearing for short run road construction problem areas (not to exceed 300 feet) may be increased to two and one-half times the roadway width, right-of-way permitting.

(4) Vegetation within the Critical Water Quality Zone may not be disturbed except for purposes consistent with development activity permitted by Section 303.3.

(5) The length of time between rough-cutting and final surfacing of streets may not exceed 24 months. If an applicant does not meet this deadline, the Director of Public Works shall notify him/her in writing that the City may complete the streets or revegetate the disturbed area at his expense through prior fiscal arrangements unless he/she does so within 60 days after the date on the notice, or unless he provides erosion and sedimentation controls and the continuing maintenance thereof acceptable to the Director of Public Works.

Sec. 303.3 Critical Water Quality Zone

(a) Critical Water Quality Zones shall be established along all creeks and tributaries with drainage basins greater than 64 acres in size. The zone line shall be delineated parallel to each such creek or tributary according to the size of the drainage basin:

(1) For Minor waterways, the zone line shall be defined by the limits of the 100-year flood plain, provided that it shall never extend beyond 100 feet on each side from the centerline of the waterway.

(2) For Intermediate waterways, the zone line shall be defined by the 100-year flood plain; provided that it shall never be located greater than 200 feet nor less than 100 feet on each side from the centerline of the waterway.

(3) For Major waterways, the zone line shall be defined by the 100-year flood plain; provided that it shall never be located greater than 400 feet nor less than 200 feet on each side from the centerline of the waterway.

(b) The flood plain delineation shall be based on a channel in its unaltered state, and shall assume developed watershed conditions.

(c) The Critical Water Quality Zone shall remain free of all construction activity, development and alterations except that the following may be permitted:

(1) Arterial, collector and residential street crossings only as provided below:

a. Major waterways may be crossed by arterial streets that are identified in the City of Austin Roadway Plan, as approved by the City Council.

b. Intermediate waterways may be crossed by arterial and collector streets, provided, however, that no collector street crossing shall be within 2000 feet of any other crossing of a collector street or arterial street on the same waterway.

c. Minor waterways may be crossed by arterial and collector streets, provided, however, that no collector street crossing shall be within 2000 feet of any other crossing of a collector street or arterial street on the same waterway.

d. Minor waterways may be crossed by a residential street only with a variance approved by the Planning Commission.

e. The Planning Commission may vary these requirements prior to, or at the time of, preliminary plan approval after receiving reports from the Directors of Public Works, Urban Transportation and Environmental Resource Management.

(2) Utilities as provided by Sections (d) and (e) below.

(3) Fences that do not obstruct flood flows.

(4) Public and private parks and open space, with development in the parks and open space limited to trails and facilities (other than stables and corrals for animals) for hiking, jogging, non-motorized biking, and nature walks.

(d) All utilities other than wastewater shall be located outside the Critical Water Quality Zone, except for crossings, and shall comply with the provisions of the Utility Assignment Policy.

(e) Wastewater trunk lines and lateral lines shall be located out of the Critical Water Quality Zone whenever possible except for crossings. At the time of preliminary plan review, the Director of Environmental Resource Management and the Environmental Board shall make a report to the Planning Commission on any significant environmental impact and possible alternatives related to wastewater line locations in the Critical Water Quality Zone. In no case shall any wastewater line be located less than 100 feet from the centerline of a major waterway or 50 feet from the centerline of an intermediate waterway or 25 feet from the centerline of a minor waterway unless approved by the Planning Commission upon consideration of reports by the Directors of Environmental Resource Management and Water and Wastewater, and the applicant has shown that installation outside of this zone is environmentally unsound or physically prohibitive. Pressurized, small diameter sewage col-

lection systems should be considered as an alternative to gravity sewers. Connections to wastewater lines previously approved by the Planning Commission do not require additional Planning Commission approval under this section.

Sec. 303.4 Overland Flow and Natural Drainage

(a) Purpose. Natural drainage patterns must be preserved whenever possible and the loss of the pervious character of the soil should be limited in order to prevent erosion and attenuate the harm of contaminants collected and transported by stormwater. Open surface drainage through grass-lined swales shall be preferred. Drainage objectives can best be accomplished by leaving portions of a subdivision in an underdeveloped, natural, and contiguous state and located to receive runoff from the developed areas for purposes of unchannelized, overland flow. The use of streets and street rights-of-way as the central drainage network shall be avoided whenever practical. Drainage swales and other areas used for conveying stormwater runoff from developed areas shall be located to avoid sinkhole, faults, and fractures to the greatest extent practicable.

(b) Construction of enclosed storm sewers and impervious channel linings shall be permitted only when the Director of Public Works, on the basis of competent engineering evidence, concludes that such storm sewers or impervious linings are the only justifiable option available. In the event that stormwater drainage systems and/or culverts are necessary, such systems shall be designed to mitigate their impact on water quality through the use of approved control strategies to control sediment and dissipate energy and through the use of multiple smaller outlets whenever practical and by locating discharges to maximize overland flow.

Sec. 303.5 Velocity Attenuation and Surface Drainage Channels

(a) All drainage channels that are to be constructed, or that are to be altered for drainage purposes or for purposes other than street and utility crossings, shall conform to the criteria of this section.

(b) Requirements for design:

(1) Surface drainage channels shall be designed to minimize potential erosion and to maximize the bottom width to flow depth ratio:

a. Channel cross-sections shall be trapezoidal in configuration.

b. Side slopes of channels shall be no steeper than 4 horizontal to 1 vertical.

c. For a 6-month design storm assuming wet antecedent conditions, channel bottom flow depth shall not exceed 4 inches and design flow velocity shall not exceed 2.5 feet per second.

d. All constructed and altered drainage channels shall be stabilized and vegetated immediately after final grading.

e. The Director of Public Works may allow exceptions to the design flow velocities or depths in the following situations in conformance with the purpose of Section 303.4:

1. On lands with greater than 15% slope, or less than 2% slope. Provided that the design flow velocity shall never be greater than 3 feet per second.

2. In limited transitional channel sections (such as culverts, culvert entries and exits, drop sections, sharp bends, and water quality basin entries).

Sec. 303.6 Wastewater Collection and Disposal

(a) Organized Sewer Systems. All construction of sewer systems within the Edwards Aquifer Recharge Zone shall comply with the special standards of Sec. VII-B of the City of Austin manual, "Standard Specifications for Water and Wastewater Utility Construction."

(b) Individual Disposal Systems. The minimum size of all lots not served by organized wastewater collection and disposal systems shall be at least one acre. Drain fields shall not be located on lands with slopes greater than 15% gradient. Unsewered lots overlying the Aquifer Recharge Zone shall use alternative sewage disposal systems that are lined to prevent any infiltration to the aquifer, and shall be installed in accordance with Ordinance 720928-A, as amended.

Sec. 303.7 Street Standards

(a) Alternative urban street standards, as provided by sections 41-38.1 through 41-38.5 in the Code of the City of Austin, may be used in the aquifer-related watersheds. Drainage from the streets shall comply with Sections 303.4 and 303.5 of this Article. Curb cuts for the purpose of overland flow and velocity attenuation and surface drainage channels shall be encouraged.

(b) All driveways shall be designed such that drainage flow from a 25-year storm shall not exceed a depth of 12 inches on any portion of the driveway.

Division 304. Additional Control Strategies

Sec. 304.1 Detention, Sedimentation and Filtration for Water Quality Control

(a) All developments of land or portions of developments in the Uplands Zone with projected impervious cover exceeding 18% shall comply with the provisions of this division. In addition, said subdivisions shall comply with all the control strategies of Division 303 and the requirements of Chapter 41 of this Code.

(b) Water quality detention/sedimentation basins shall be situated and constructed to capture and hold at least the first 0.5 inch of runoff from all streets (including boundary streets) and developed areas within the subdivision, with the exception of single family and duplex lots that back up to Water Quality Buffer Zones and street sections overlying the Critical Water Quality Zone and the Water Quality Buffer Zone.

(1) The water quality basins and drainage into the basins shall be designed to capture and isolate the first flush runoff. All subsequent runoff in excess of the design capacity of the basins shall bypass the basins and remain segregated from the contained runoff waters in a peak shaving basin up to the capacity specified in the drainage criteria manual.

(2) The design of all water quality basins shall allow an average residence time of 24 hours for the first half inch of runoff.

(3) All water quality basins located in the aquifer recharge zone shall have impervious liners to prevent seepage to groundwater.

(4) Input to and release from water quality basins shall utilize grass-lined swales and/or overland flow dispersion measures in conformance with sections 303.4 and 303.5 above.

(c) Water Quality Filtration.

(1) Sedimentation basins detaining runoff drainage from commercial areas and areas where the projected impervious cover exceeds 25 percent shall, in addition to the other requirements of this section, release all water through filter media.

(2) Filtration/sedimentation basins shall be required to serve all commercial lots. Such basins shall be situated and constructed to capture and hold at least the first 0.5 inch of runoff.

(d) No water quality basins in the aquifer recharge zone shall allow direct infiltration to groundwater.

Division 305. Maximum Development Intensity

Sec. 305.1 Building Sites and Calculation of Impervious Cover

(a) All residential lots created by the subdivision of land shall contain an adequate building site prior to development. An adequate building site shall not have less than 3,000 square feet and shall not contain: (a) discontinuous segments; (b) land within the Critical Water Quality Zone; (c) land within a drainage or utility easement; (d) any stream, pond or detention basin, either permanent or temporary; or (e) land within the building setback line.

(b) All residential lots created by the subdivision of land must be assumed to create a minimum of 3,000 square feet of impervious cover for the purposes of this division, unless a lesser amount is proposed through a legally enforceable document approved by the City Attorney.

(c) In calculating projected impervious cover data, all existing impervious surfaces shall be included in the calculations and charged against impervious cover allowances. This provision does not include any "natural" imperviousness, such as rock outcrops, on the site. All projected impervious cover is to be assumed as 100 percent impermeable unless specific proposed alternate surfaces are authorized as being less than such by the Water Quality Review Board.

(d) No development shall be permitted on slopes exceeding 35% gradient.

Sec. 305.2 Water Quality Buffer Zone

(a) A Water Quality Buffer Zone shall be established parallel to all Critical Water Quality Zones, and shall extend from the outer boundaries of the Critical Water Quality Zone for 300 feet along major and intermediate waterways, and 100 feet along minor waterways.

(b) The projected impervious cover in any subdivision or portion thereof that lies within the Water Quality Buffer Zone shall not exceed 18% for single-family and duplex development or 15% for commercial or multi-family development.

(c) No commercial development shall occur within 100 feet of the centerline of a minor waterway.

(d) No detention and/or sedimentation/filtration basins which serve development in the Uplands Zone shall be permitted in the Water Quality Buffer Zone. Provided, however, that sedimentation/filtration basins to serve that portion of any commercial development located in the buffer zone shall be permitted in the buffer zone.

Sec. 305.3 Uplands Zone

(a) The projected impervious cover for single- and two-family residential development of land in the Uplands Zone shall not exceed 30%, unless transfers of development intensity are made in accordance with Sec. 305.4 of this Article.

(b) The projected impervious cover on any single commercial lot in the Uplands Zone shall not exceed 40%, unless transfers of development intensity are made in accordance with Section 305.4 of this Article.

Sec. 305.4 Transfer of Development Intensity

(a) For every one acre of land in the Water Quality Buffer Zone which is left undeveloped and undisturbed and is not included in impervious cover calculations elsewhere, the applicant is entitled to an additional 15,000 square feet of impervious cover on lands in the Uplands Zone.

(b) Transfers of development intensity can only be made to land in the Upland Zone. When transfers of development intensity are assigned, the land to which the transfer is assigned shall be limited to a maximum impervious cover of 55%, if it is to be used for commercial purposes, and 40% if it is to be used for single- or two-family residential purposes.

(c) An applicant who transfers development intensity pursuant to this section must plat all affected lands concurrently and transfer all development rights on the land from which the transfer is made and note the transfer on each such lot on the plat, and must file in the deed records a restrictive covenant, approved by the City Attorney, that evidences the transfer and runs with the land from which the transfer was made. Development intensity on a tract can only be transferred to another tract located within a one-mile radius of said tract, unless the tracts are contiguous and under single ownership or are not separated by lands under a different ownership.

Division 306. Technical Review

Sec. 306.1 Water Quality Review Board

An applicant may be permitted to use alternative control strategies in lieu of those required by this article only with the approval of the Water Quality Review Board as established by Sec. 41A-205.1 of this Code. The Water Quality Review Board shall meet, hear the applicant (and interested parties in a public meeting) and rule on the appropriateness of the alternative control strategies within 30 days after the applicant has requested Board approval and submitted all necessary supporting data. The applicant shall have the burden of proof of the validity of all strategies that are not proven to be equal to, or to exceed, the abilities of the control strategies required by this article to mitigate the pollution impacts of rainfall runoff. The applicant may resubmit strategies if the Board disapproves due to inadequate support data. Board approval of a new control strategy shall not constitute an addition to this article. Subsequent applicants desiring to use similar control strategies must prove the adequacy of such strategies for each particular site. The validity of the proposed alternative strategies must be certified by a registered Texas Professional Engineer with expertise in the area of concern, and must be capable of being enforced.

Division 307. Inspection and Enforcement and Maintenance

Sec. 307.1 Inspection and Enforcement

(a) Pre-application process - Prior to submitting a plan or plat for approval, a prospective applicant shall request in writing and attend a development pre-application conference coordinated and scheduled by the Director of Planning and attended by representatives of all relevant City Departments. Applicants should be prepared to present a conceptual plan at that time, including, but not limited to drainage, land use, utility and street layout conceptualizations. The conference must be held within 10 days of the request or applicant may proceed to submit a preliminary plan.

(b) Inspection - Any person or his/her successor and assigns who has filed a plan or plat for approval pursuant to this Article shall agree in writing to allow entry on the land or premises which is the subject of such application for the purpose of inspection of conditions on the premises during the approval stage and during development and construction by duly authorized inspectors of the City of Austin.

(c) Construction phase inspections - The City of Austin shall cause such inspections to be made of the land or premises during development and construction so as to assure full compliance with all terms, conditions, requirements, and agreements to which the person obtaining approval of a plat or plan under this article is bound.

(d) Notice - The applicant shall designate one person or legal entity, with a current address, to which notice shall be given pursuant to this division.

(e) Enforcement

(1) Administrative - When an appropriate Department Director of the City of Austin determines that there has been non-compliance with any material term, condition, requirement or agreement under this division, the person obtaining such approved plan or plat shall be ordered in writing to cease and desist from further development or construction material to the alleged non-compliance until corrected by compliance. Said person may appeal an order to cease and desist to the appropriate Department Director by giving written notice. Said Director shall hear the appeal within three working days of receiving such notice. Said person may appeal in writing a negative ruling by the Director to the Planning Commission, which shall hear the appeal at the next regular meeting following receipt of the notice.

(2) Court - The City of Austin shall bring suit in a court of competent jurisdiction to restrain and enjoin any person who attempts to carry out any plan for subdivision development and construction without first obtaining approval of said plat and plan as required by the law and the ordinances of the City of Austin or any person who fails to cease and desist from further development or construction under (1) above.

(3) Any right, privilege or remedy granted by this section to the person obtaining or holding plat or plan approval shall also run in favor of such person's successors in interest and assigns. Any duty or obligation of or remedy against such person arising from this section shall also inure as to such person's successors in interest, assigns, agents, employees, representatives, or any person acting pursuant to the directions of any of the foregoing, or under color of the same.

Sec. 307.2 Maintenance Stage

All developments of land in the aquifer-related watersheds shall comply with the provisions of this section. Development of land outside the City of Austin shall comply with the provisions of Section 307.3. After annexation by the City of Austin, the terms of Section 307.4 shall apply instead.

(a) All drainage facilities located in the street rights-of-way shall be maintained by the appropriate jurisdiction.

(b) All drainage facilities located on private property shall be maintained by the property owner.

(c) The maintenance of all drainage facilities and their appurtenances required above shall be to the standards and specifications contained in this article and other ordinances and resolutions of the City and shall retain the effectiveness of each design feature of part of a plat or plan governed by the provisions of this article.

(d) Duly authorized inspectors of the City shall have the right of entry on the land or premises where property owners are required to maintain drainage facilities or detention/filtration facilities, at reasonable times, for the purpose of inspection of the maintenance required. The City Public Works Department shall inspect the premises of each such facility approved pursuant to this Division at least once per year. Where non-compliance is found, the City shall request in writing that the property owner comply. This notice shall describe the measures required to be taken. If, within three months of the notice the maintenance required is not accomplished, the City shall either:

(1) Cause the necessary restoration to be accomplished and assess the property owner for the City's actual cost, or

(2) Bring an action for mandatory injunction to require the property owner to accomplish the necessary maintenance.

(e) All drainage easements across private property shall contain the necessary language to permit the required water flow, require the maintenance set out herein, and permit the necessary access by the City of Austin for inspection and maintenance. All these shall be properly noted on the plat.

Sec. 307.3 Maintenance Outside the City

All developments of land in the aquifer-related watersheds outside the City of Austin shall comply with the maintenance requirements of this section in addition to those in Section 307.2.

(a) Maintenance of the land and premises, all sedimentation and sedimentation/filtration facilities, drainage swales and other appurtenances related to stormwater runoff control shall be conducted by the person submitting the plat or plan for approval, his successors and assigns, in order to retain the substantial ef-

fectiveness of each design feature or part of a plat and plan governed by the provisions of this article in order to accomplish the purposes and requirements thereof. Each landowner shall be responsible for the cost of maintenance in proportion as the land area owned by him is related to the total land area owned by all owners in the subdivision, except that an owner shall be fully responsible for design features on property wholly owned by him.

(b) Each subdivision plat or plan approved by this ordinance shall contain a note creating a homeowners' association, which shall be organized as a non-profit membership corporation pursuant to the laws of the State of Texas. The homeowners' association shall be responsible for complying with the terms of this article, insofar as maintenance of common areas is concerned. Assessments by the City of Austin may be required of each owner as provided in Section 307.2(d).

(c) The required maintenance by private landowners and their Homeowner's Associations and the power of the City specified in Section 307.2(d) shall be noted on the plat.

Sec. 307.4 Maintenance Inside the City

All developments of land in the aquifer-related watersheds that are inside the City of Austin shall comply with the maintenance requirements of this section in addition to those in Section 307.2.

(a) All sedimentation and sedimentation/filtration facilities and their appurtenances required for commercial property shall be maintained by the property owner.

(b) Except as provided by Section 307.4(a) above, all required sedimentation/filtration facilities and their appurtenances shall be dedicated to the City of Austin by easement or fee simple as may be required by the City. The City shall accept dedication and assume maintenance of such facilities when the following conditions have been met:

(1) The facility is designed and has been constructed in accordance with City approved plans and procedures and has been inspected and certified by the Department of Public Works as being in conformance with the standards set forth by this Article and other applicable ordinances and resolutions of the City.

(2) The street and drainage systems of the subdivision have been certified by the Department of Public Works as having been constructed in conformance with the standards set forth by

this Article and other applicable ordinances and resolutions of the City and all deficiencies noted during the one year maintenance warranty period have been corrected by the developer/contractor.

Provided, however, notwithstanding any of the foregoing, the City shall not assume the responsibility of cutting vegetation in or around such facilities when such facilities are dedicated to the City by easement. Such limited responsibility shall be that of the fee simple owner.

Provided further, that upon the request of the applicant, the Planning Commission may approve the delegation of the maintenance responsibility of the City under this subsection to a homeowners' association or other appropriate entity if the Commission finds that the maintenance of the facility will be equal to or better than that which will be provided by the City, that adequate fiscal arrangements for the same have been made, and that such arrangement will be legally enforceable. Nothing contained in this paragraph shall be construed so as to waive the dedications provided for in this subsection or the authority of the City set forth in subsection 307.2 above.

No sedimentation/filtration facilities and their appurtenances owned by a homeowners' association shall be required to be dedicated to the City of Austin, but the City of Austin may accept a dedication approved according to the by-laws of the homeowners' association, provided: (1) the facility is in such condition as to meet standards required by the Department of Public Works; and (2) the City has the option to require such dedication in fee simple or in any other form of property interest; and (3) upon dedication to the City, a fee for maintenance of the sedimentation/filtration facilities shall be levied against each lot and at the fee rate currently in effect.

(c) The required maintenance by private landowners and the power of the City specified in Section 307.2(d) shall be noted on the plat.

Division 308. Variances

Sec. 308.1 Variances

(a) The Planning Commission may, after a public hearing, grant a variance from the terms of this Article only if an applicant requests in writing and the Commission finds that, because of special circumstances applicable to the property involved, a strict application deprives such property of privileges or safety enjoyed by other similarly situated property with similarly timed development. Where such conditions are found, the variance permitted shall be the minimum departure from the terms of this Article ne-

cessary to avoid such deprivation of privileges enjoyed by such other property to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences. The Planning Commission may not grant a variance if it would provide the applicant with any special privileges not enjoyed by other similarly situated property with similarly timed development, or if based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivides land after the effective date of this ordinance.

(b) The Planning Commission may, after a public hearing, grant a variance from the terms of Section 303.3 and/or 305.2 when the Critical Water Quality Zone and/or the Water Quality Buffer Zone constitutes a proportion of the land in the proposed plat or plan making the requirement an unreasonable or undue hardship. However, no such variance may be granted if the condition was created as a result of the method by which a person voluntarily subdivides land after the effective date of this ordinance. The granting or denial of this variance may be appealed to the City Council by any citizen.

(c) The granting or denial of any variance may be appealed to the City Council by any citizen, provided that the Council shall consider the appeal after a public hearing, no later than the second regular Council meeting following the Planning Commission action.

(d) The Director of Planning shall prepare and maintain in the Planning Department for public inspection:

(1) A written summary of variances granted and denied under subsection (a); and,

(2) The contents of the files, including the appeal record if there was an appeal, for each variance acted on by the Planning Commission.

(e) The Planning Commission shall seek the review of the Water Quality Review Board on proposed variances that may directly impact the water quality.

Division 309. Contractors' Permits

Sec. 309.1 Permit Required

No person shall construct, reconstruct, alter, repair, remove, place, replace, pave, repave, surface, or resurface site development related facilities in a subdivision approved pursuant to this Article without first obtaining a valid contractors' permit approved and issued by the Director of Public Works.

(a) Such permit shall list the City permits and other related approvals required before a contractor may begin work. The permit shall also include the name and signature of the contractor's representative responsible for the project.

(b) No new permit shall be issued to any contractor who holds a suspended permit or has had a permit revoked within the preceding twelve (12) months; however, a contractor who has had a permit suspended or revoked may complete the work authorized by other previously issued construction permits so long as the work performed thereunder is in compliance.

(c) In the event that any contractor fails to comply with the terms of the permit, the approved construction plans on which the permit is based, or applicable ordinance requirements, said permit may be suspended and/or revoked by the Director of Public Works after the contractor has been notified in writing of the specific act(s) and/or omissions(s) constituting non-compliance and has been given a reasonable opportunity to correct the act(s) and/or omission(s) constituting non-compliance.

(d) Enforcement of this provision shall be in conformance with the procedure of subsections 307.1(d)(1) and (2).

PART 2. This article shall not apply to the subdivision of land in the aquifer-related watersheds only if the final plat was approved or disapproved by the Planning Commission before the effective date of this ordinance. For the purposes of this article, final plats that have received statutory disapproval are not considered as disapproved final plats and are therefore subject to the requirements of this article.

PART 3. The need to protect the Edwards Aquifer, Barton Springs and Slaughter, Bear, Little Bear, and Onion Creeks and their watersheds from irreparable harm that can result from development activities creates an emergency; therefore, an emergency is hereby declared to exist; the rule requiring that ordinances be read on three (3) separate days is hereby suspended and this ordinance shall be effective immediately upon its passage and adoption as provided for in the Charter of the City of Austin.

PART 4. If any provision, section, sentence, clause, or phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void,

or invalid of for any reason unenforceable, the validity of the remaining portion of this ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City of Austin in adopting, and of the Mayor in approving this ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation.

PASSED AND APPROVED

May 14, 1981

Y
Y
Y

Carole Keeton McClellan
Mayor

APPROVED:

Albert De La Rosa
City Attorney

ATTEST:

Grace Mounroe
City Clerk

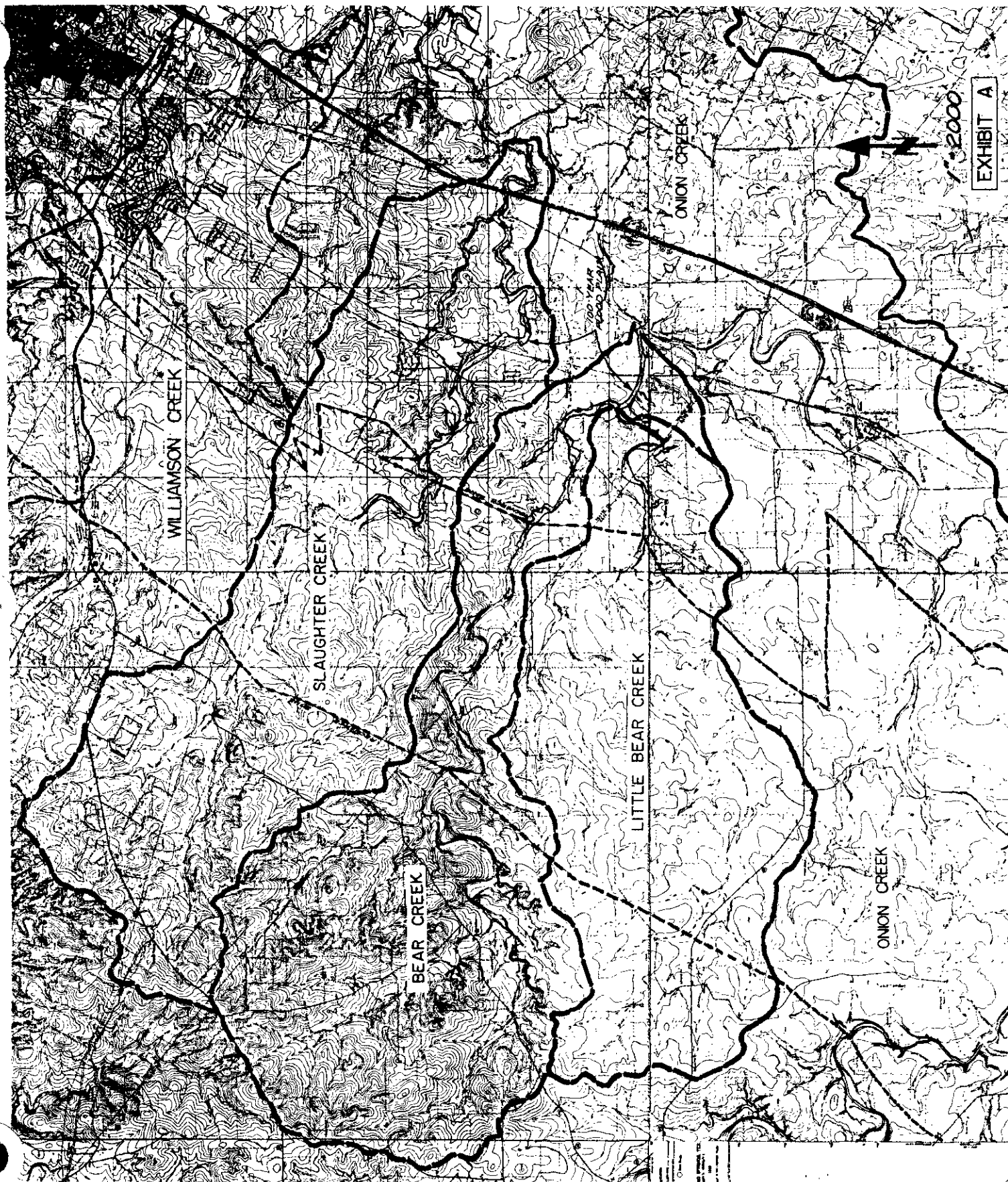


EXHIBIT A