ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 25-8 RELATING TO DEVELOPMENT IN CRITICAL WATER QUALITY ZONES AND CUT AND FILL REQUIREMENTS.

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

PART 1. Subsection (B) of City Code Section 25-8-261 (Critical Water Quality Zone Development) is amended to read as follows:

(B) Open space is permitted in a critical water quality zone if a program of fertilizer, pesticide, and herbicide use is approved by the Watershed Protection Department, subject to the conditions in this Subsection.

1. In a water supply rural watershed, water supply suburban, or the Barton Springs Zone, open space is limited to sustainable urban agriculture or a community garden if the requirements in subsection (B)(4) are met, multi-use trails, picnic facilities, and outdoor facilities, excluding stables, corrals for animals and athletic fields.

2. A master planned park that is approved by the council may include recreational development other than that described in Subsection (B)(1).

3. A hard surfaced trail may cross the critical water quality zone pursuant to Section 25-8-262 (Critical Water Quality Zone Street Crossings). A hard surfaced trail that does not cross the critical water quality zone may be located within the critical water quality zone only if:

   a. designed in accordance with the Environmental Criteria Manual;

   b. located outside the erosion hazard zone unless protective works are provided as prescribed in the Drainage Criteria Manual;

   c. limited to 12 feet in width plus one-foot compacted sub-grade shoulders, unless a wider trail is designated in a Council-adopted plan [the Urban Trails Master Plan adopted by Council];
(d) located not less than 25 feet from the centerline of a waterway if within an urban watershed;

(e) located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway if within a watershed other than an urban watershed;

(f) located not less than 50 feet from the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Walter E. Long, as defined in Section 25-8-92; and

(g) located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam.

(4) Open space may include sustainable urban agriculture or a community garden only if:

(a) in an urban watershed and located not less than 25 feet from the centerline of a waterway, or in a watershed other than an urban watershed and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway;

(b) located not less than 50 feet from the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Walter E. Long, as defined in Section 25-8-92;

(c) located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam;

(d) designed in accordance with the Environmental Criteria Manual; and

(e) limited to garden plots and paths, with no storage facilities or other structures over 500 square feet.

(5) In a suburban or urban watershed, open space may include an athletic field only if:
(a) in an urban watershed and located not less than 25 feet from the centerline of a waterway, or in a suburban watershed and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway;

(b) located not less than 50 feet from the shoreline of Lady Bird Lake and Lake Walter E. Long, as defined in Section 25-8-92;

(c) located not less than 100 feet from the ordinary high water mark of the Colorado River downstream from Longhorn Dam; and

(d) the owner of the athletic field submits to the Watershed Protection Department a maintenance plan to keep the athletic field well vegetated and minimize compaction, as prescribed in the Environmental Criteria Manual.

PART 2. Subsection (A) of City Code Section 25-8-341 (Cut Requirements) is amended to read as follows:

(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 or swimming pool;

(4) for construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if:

(a) the design and location of the facility within the site minimize the amount of cut over four feet;

(b) the cut is the minimum necessary for the appropriate functioning of the facility; and
(c) the cut is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;

(5) for utility construction or a wastewater drain field, if the area is restored to natural grade;

(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 City; and
   (d) all other applicable City Code provisions are met; or[

(7) for any cut associated with construction of a multi-use trail, if:
   (a) the cut is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;
   (b) the cut is limited to no more than eight feet in depth;
   (c) the cut is located in a public right-of-way or public easement; and
   (d) the trail is designed in accordance with the Environmental Criteria Manual.

PART 3. Subsection (A) of City Code Section 25-8-342 (Fill Requirements) is amended to read as follows:

(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 construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if:

(a) the design and location of the facility within the site minimize the amount of fill over four feet;

(b) the fill is the minimum necessary for the appropriate functioning of the facility; and

(c) the fill is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;

(5) for utility construction or a wastewater drain field; or

(6) in a state-permitted sanitary landfill located in the extraterritorial jurisdiction, if:

(a) the fill is derived from the landfill operation;

(b) the fill is not placed in a critical water quality zone or a 100-year floodplain;

(c) the landfill operation has an erosion and restoration plan approved by the City; and

(d) all other applicable City Code provisions are met; or

(7) for fill associated with construction of a multi-use trail, if:

(a) the fill is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;

(b) the fill is limited to no more than eight feet in depth;

(c) the fill is located in a public right-of-way or public easement; and

(d) the trail is designed in accordance with the Environmental Criteria Manual.
PART 4. This ordinance takes effect on _______________, 2021.

PASSED AND APPROVED

____________________________, 2021

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Steve Adler
Mayor

APPROVED: ________________________________
Anne L. Morgan
City Attorney

ATTEST: ________________________________
Jannette S. Goodall
City Clerk