

ORDINANCE NO. 080513

AN ORDINANCE AMENDING CHAPTER 4 OF THE CITY'S LAND DEVELOPMENT CODE, PROVIDING REVISED REGULATIONS FOR VARIANCES FROM WATERSHED PROTECTION REGULATIONS AND RESTRICTIONS ON DEVELOPMENT IN DEVELOPMENT FREE ZONES, PROVIDING EXCEPTIONS FROM IMPERVIOUS COVER CALCULATIONS IN CONNECTION WITH SMALL RESIDENTIAL PROJECTS, PROVIDING FOR AN ADMINISTRATIVE APPROVAL PROCEDURE FOR CERTAIN SMALL STRUCTURES ON RESIDENTIAL PROPERTY, PROVIDING FOR POLLUTION REDUCTION MEASURES TO BE REQUIRED IN CONNECTION WITH SMALL STRUCTURES IN THE DEVELOPMENT FREE ZONE, PROVIDING AN APPEAL PROCEDURE FROM A DETERMINATION MADE IN CONNECTION WITH A REQUEST FOR ADMINISTRATIVE APPROVAL, PROVIDING FOR TECHNICAL AMENDMENTS AND CLARIFYING LANGUAGE, PROVIDING FOR REORGANIZATION OF PROVISIONS OF CHAPTER 4, PROVIDING FOR PUBLICATION OF NOTICE OF THE AMENDMENT, AND PROVIDING FOR SEVERANCE

WHEREAS, the City's watershed protection regulations have been amended from time to time over several years, necessitating a re-codification of same for the convenience of users of the City's Land Development Code (hereinafter, the "Code");

WHEREAS, the City desires to revise its watershed protection regulations to enable owners of single family properties developed prior to the adoption of the Code to make limited alterations or improvements to their property, while providing for flexible measures to be taken to protect water quality;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUNSET VALLEY:

Section 1. All references to sections and subsections used in this Ordinance shall be references to sections and subsections of the Code.

Section 2. Subsections (a) and (b) of Section 4.102 are amended to provide as follows:

- (a) No land in the City of Sunset Valley or its extraterritorial jurisdiction shall be developed and no improvement shall be constructed or installed thereon until such

proposed development, construction or installation is in compliance with all applicable provisions of this Code and any other ordinance or City Code and has been approved, as applicable, in accordance with this Code.

- (b) Except as otherwise expressly provided in this Chapter, no permit of any kind shall be issued pursuant to this Code for the construction, repair, or modification of any structure, or improvement or for the installation of a Public or Private Sewage Facility unless a watershed development permit for such construction, repair or modification or installation has been approved and filed with the City of Sunset Valley and all applicable standards contained herein or referred to in this Chapter have been complied with in full.

Section 3. Subsections (a), (b), and (c) of Section 4.103 are amended to provide as follows:

- (a) Except as provided in the provisions of this Section authorizing variances or administrative approvals in connection with single family developments, the City Council may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In making the findings herein required, Council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience, and the welfare in the vicinity. No variance shall be approved unless the City Council finds:

- (1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable and economic use of his land; and

- (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and

- (3) That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area; and

- (4) That the granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this Chapter; and

- (5) That the proposal demonstrates water quality will be equal to or better than would have resulted had development proceeded without the variance.

- (b) Such findings described in subsection (a) together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City

Council meeting at which such variance is recommended. Variances may be recommended only when in harmony with the general purposes and intent of this Chapter so that the public health, safety, and welfare may be secured and substantial justice done. Pecuniary hardships to a person or developer standing alone, shall not be deemed to constitute undue hardship.

- (c) The City Council may grant a variance, pursuant to subsection (a), from the terms referring to the Development Free Zone within a proposed plan when the strict compliance will result in an unreasonable and unwarranted taking or an undue hardship. Where such conditions are found, the variance permitted shall be the minimum departure from the terms of this Chapter necessary 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 City Council may not grant a variance if it would provide the applicant with any special privileges not enjoyed by other similarly situated property with the similarly timed development.

Section 4. The introductory paragraph of subsection (f) of Section 4.103 [up to subsection (f)(1)] is amended to provide as follows:

- (f) Except as otherwise provided in subsections (g) and (h) of this Section in connection with administrative approval of certain incidental improvements, for a single existing legal lot or two adjacent existing legal lots, zoned and used or proposed to be used for single family residential purposes, a variance is required to develop any portion of the lot that lies within the Water Quality Transition Zone. The following regulations shall govern the granting of such variances:

Section 5. Subsection (f)(1)(B) of Section 4.103 is amended to provide as follows:

- (B) The amount of impervious cover placed within the WQTZ is no more than is reasonably necessary and, in any event, the amount of impervious cover in the WQTZ does not exceed 14% of the acreage of the lot, rounded to the nearest hundredth of an acre;

Section 6. Subsection (f)(2)(A) of Section 4.103 is amended to provide as follows:

- (A) Impervious cover in the water quality transition zone shall be no more than 14% of the total portion of the lot that is in the transition zone. The impervious cover within the water quality transition zone shall be part of, and not in addition to, the total amount of impervious cover allowed on the lot as a whole.

Section 7. Subsection (g) of Section 4.103 is deleted in its entirety and replaced with the following subsection (g). New subsections (h), and (i) are added to Section 4.103, so that subsections (g), (h), and (i) shall provide as follows:

- (g) (1) **Water Quality Transition Zone Small Structures** - Subject to subsections (g)(1)(A) - (D), below, the City Administrator or his/her designee shall grant Administrative Approval of an application to construct, operate, and maintain in the WQTZ on a legal lot zoned and used for single-family residential purposes improvements described in Section 4.301(e), provided the Applicant demonstrates ~~to the City~~ that the following conditions are met:
- (A) The allowable improvement does not require the addition of any fill;
 - (B) The improvement is in compliance with all applicable provisions of this Code, including but not limited to Chapter 2 and Chapter 5, and complies with other City codes, rules and regulations;
 - (C) The improvement does not impede surface water runoff or drainage patterns and does not increase flooding on upstream or downstream properties; and
 - (D) The improvement is not used for the storage or processing of hazardous materials or substances other than those normally associated with household or residential use and only in small quantities (e.g., small quantities of gasoline and oil used for the operation of landscape equipment).
- (2) In addition to the requirements of subsection (g)(1), an Applicant seeking to construct any structures or buildings described in 4.301(e) other than those described in 4.301(e) (1)[sidewalks],(2)[uncovered decks],(4)[swimming pools, hot tubs, wading ponds, fountains, birdbaths, fish ponds] must, as a condition of the approval, implement and maintain on the property on which the proposed improvement will be located at least two (2) of the Pollution Reduction Practices described in subsection (i) of this Section 4.103, which are more fully described in the CSV Pollution Reduction Manual. The obligation to implement and maintain Pollution Reduction Practices shall be specified in a duly recorded restrictive covenant affecting the property which shall be enforceable by the City. Such obligation to implement and maintain shall remain effective so long as such improvements remain on the property.
- (3) An Applicant may receive credit for any existing Pollution Reduction Practice maintained on the property for which an Administrative Approval is requested unless: (i) the Applicant has previously received credit for the Pollution Reduction Practice pursuant to this subsection or other approval by the City Council; and (ii) the improvement, the structure or building for which the previous approval was granted still exists on the property.
- (4) If the Applicant objects to a determination on his or her request for Administrative Approval under this subsection, he or she may appeal the determination to the City Council by submitting a written notice of appeal

setting forth the bases on which the applicant believes the determination was incorrect. Such written appeal must be addressed to the City Administrator and submitted on or before twenty (21) days after the date of the determination from which an appeal is sought. The City Council may affirm, modify, or reverse the determination based on the criteria set forth in this Section.

- (5) An applicant seeking an administrative approval for the improvements described or referred in this subsection (g) is not required to satisfy any other variance provisions of Section 4.103.

- (h) **(1) Critical Water Quality Zone Small Structures** -Subject to subsections (h)(1)(A) - (D), below, the City Administrator or his/her designee shall grant Administrative Approval of an application to construct, operate, and maintain on a single lot zoned and used for single-family residential purposes, improvements described in Section 4.301(f) within a designated CWQZ located within the boundaries of a residential lot, provided the Applicant demonstrates that the following conditions are met:
 - (A) The allowable improvement does not require the addition of any fill;
 - (B) The improvement is in compliance with all applicable provisions of this Code, including but not limited to Chapter 2 and Chapter 5, and complies with other City codes, rules and regulations;
 - (C) The improvement does not impede surface water runoff or drainage patterns and does not increase flooding on upstream or downstream properties; and
 - (D) The improvement is not used for the storage or processing of hazardous materials or substances other than those normally associated with household or residential use and only in small quantities (e.g., small quantities of gasoline and oil used for the operation of landscape equipment).

- (2) In addition to the requirements of subsection (1), an Applicant seeking to construct any structure or building that is described in 4.301(f) (2)[uncovered decks], (4)(b)[hot tubs, wading ponds, fountains, birdbaths, fish ponds]and(8) [Uncovered pervious patios], must, as a condition of the approval, implement and maintain on the property on which the proposed improvement will be located at least one (1) of the Pollution Reduction Practices described in subsection (i) of this Section 4.103, which are more fully described in the CSV Pollution Reduction Manual. The obligation to maintain such Pollution Reduction Practices shall be included in a duly recorded restrictive covenant running with the land which shall be enforceable by the City. Such obligation shall continue for so long as the improvement for which the applicant is requesting an Administrative

Approval remains on the property.

- (3) In addition to the requirements of subsection (1), an Applicant seeking to construct any structure or building that is described in 4.301(f) (5) [rainwater harvesting facilities], must, as a condition of the approval, implement and maintain on the property on which the proposed improvement will be located at least two (2), in addition to itself, of the Pollution Reduction Practices described in subsection (i) of this Section 4.103, which are more fully described in the CSV Pollution Reduction Manual. Such Pollution Reduction Practices shall be specified in a duly recorded restrictive covenant affecting the property which shall be enforceable by the City. Such obligation to implement and maintain shall continue as long as such improvement remains on the property.
- (4) In addition to the requirements of subsection (1), an Applicant seeking to construct any structure or building that is described in 4.301(f)(3) [covered decks and gazebos] (4)(a)[swimming pools], (6) [solar and wind powered facilities] and (7) [accessory buildings], must, as a condition of the approval, implement and maintain on the property on which the proposed improvement will be located at least three (3) of the Pollution Reduction Practices described in subsection (i) of this Section 4.103, which are more fully described in the CSV Pollution Reduction Manual. Such Pollution Reduction Practices shall be specified in a duly recorded restrictive covenant affecting the property and shall be enforceable by the City. Such obligation to implement and maintain shall continue as long as the improvement remains on the property.
- (5) An Applicant may receive credit for any existing Pollution Reduction Practice maintained on the property for which an Administrative Approval is requested unless: (i) the Applicant has previously received credit for the Pollution Reduction Practice pursuant to this subsection or other approval by the City Council and (ii) the improvement, the structure or building for which the previous approval was granted still exists on the property.
- (6) If the Applicant objects to a determination on his or her request for Administrative Approval under this subsection, he or she may appeal to the City Council. The procedure described in subsection 4.103(g)(4) shall apply to such appeal.
- (7) An applicant seeking an administrative approval for an improvement described or referred in this subsection is not required to satisfy any other variance provisions of Section 4.103.

(i). POLLUTION REDUCTION MEASURES. The residential pollution reduction practices are described in detail in the CSV Pollution Reduction Manual as amended and approved by the City Council, which Manual shall be applicable to

any pollution reduction practice required by this Section 4.103. The following is a list of such pollution reduction practices:

ITEM NO.	METHOD	PURPOSE
NATURAL AREA CONSERVATION		
1	Utilize on a continual basis only City approved <u>Organics First</u> herbicides, pesticides, and fertilizers on the entire lot or property	Improves water quality by preventing the use of harmful chemicals, compounds, and substances
2	Utilize on a continual basis City approved <u>Livestock Pollution Management Plan</u> on the entire lot or property	Improves water quality by reducing livestock waste loads
3	Utilize on a continual basis City approved Domestic Animal Waste Management Plan on the entire lot or property	Improves water quality by reducing small animal waste loads
4	Install or retrofit and maintain a City approved <u>Water-Wise (Xeriscape) Landscape Plan</u> having an area equal to or greater than the aggregate amount of impervious cover located on the property or lot	Improves water quality by reducing the need for the use of harmful chemicals, herbicides, and insecticides
5	Install or retrofit and maintain City approved <u>Soil Amendment and Conservation Landscaping Program</u> having an area equal to or greater than the aggregate amount of impervious cover located on the property	Improves water quality by promoting vegetative growth on the property – Reduces runoff and need for supplemental irrigation
6	Obtain and maintain a “ <u>Certificate of Backyard Habitat</u> ” issued by the National Wildlife Federation for the lot or property	Improves water quality by maintaining a natural/native habitat
CAPTURE ROOFTOP RUNOFF WITH RAINWATER HARVESTING		
7	Equip any roofed structure for which an Administrative Approval is being requested and/or install on an existing roof structure located on the property a <u>Rainwater Collection System</u> – The Rainwater Collection System must gather water from roof areas of a sufficient size to harvest the required Water Quality Mitigation Volume. Collected rain water must be temporarily stored on-site in approved storages providing for Water Quality Mitigation of 720 gallons per 300 square feet of exempted impervious cover being permitted, with a minimum capacity of 720 gallons.	Improves water quality by reducing the amount of runoff being discharged from the property
8	Direct rooftop runoff captured by rainwater harvesting techniques over a City approved <u>Natural Vegetative Filter Strip</u> where it can either infiltrate into the soil or filter over it and/or direct rooftop runoff to a City approved <u>Dry Well</u> or <u>Rain Garden</u> . Natural Vegetative Filter Strip, Dry Well or Rain Garden must be sized for Water Quality Mitigation of 720 gallons per 300 square feet of exempted impervious cover being permitted, with a minimum capacity of 720 gallons.	Improves water quality by reducing the amount of runoff being discharged from the property
CAPTURE NON-ROOFTOP RUNOFF FROM IMPERVIOUS COVER		
9	Install and maintain, downstream of the improvement for which an Administrative Approval is being requested, a City approved <u>Natural Vegetative Filter Strip</u> – The Natural Vegetative Filter Strip must have Water Quality Mitigation of 720 gallons of runoff	Improves water quality by providing treatment of surface water runoff before leaving the property

	per 300 square feet of exempted impervious cover being permitted, with a minimum capacity of 720 gallons.	
10	Install and maintain, downstream of the improvement for which an Administrative Approval is being requested, a City approved Engineered Vegetative Filter Strip – The Engineered Vegetative Filter Strip must have Water Quality Mitigation of 360 gallons of runoff per 300 square feet of exempted impervious cover being permitted, with a minimum capacity of 360 gallons.	Improves water quality by providing treatment of surface water runoff before leaving the property
11	Install and maintain, downstream of the improvement for which an Administrative Approval is being requested a Rain Garden sized for Water Quality Mitigation of 720 gallons per 300 square feet of exempted impervious cover being permitted, with a minimum capacity of 720 gallons.	Improves water quality by providing treatment of surface water runoff before leaving the property
12	Install and maintain, downstream of the improvement for which an Administrative Approval is being requested, a Natural Buffer having a minimum area of 1,125 square feet (length to width ratio of about 1.8 to 1) for Water Quality Mitigation of 360 gallons per 300 square feet of exempted improvement being permitted, with a minimum capacity of 360 gallons.	Improves water quality by providing treatment of surface water runoff before leaving the property
13	Install and maintain a Pollution Reduction Measure proposed by the Applicant, provided such measure meets or exceeds the Water Quality Mitigation of 720 gallons per 300 square feet of exempted impervious cover for non-engineered pollution reduction measures or 360 gallons per 300 square feet of exempted impervious cover for engineered pollution reduction measures	

Section 8. Section 4.107 is amended in its entirety to provide as follows:

Sec. 4.107 Single-Family Residential Small Project Requirements

- (a) This section applies to a legal lot which is to be developed with one single family residence, or to two contiguous legal lots which are to be developed or redeveloped by the same developer with one or two single family residence(s), or in connection with which additional or expanded improvements resulting in additional impervious cover is proposed.
- (b) Three (3) copies of a preliminary site plan showing the information required in this section shall be submitted with the development permit application. Only the following information will be required for submittal if the lot or lots are not otherwise exempt from the requirements of this Chapter:
 - (1) legal description of the property;
 - (2) name and address of the Owner/Developer;
 - (3) name and address of the company or individual who prepared the site plan;

- (4) a topographic map with two (2) foot contours based upon City of Austin data showing;
 - (A) the horizontal limits and elevations of the one-hundred (100) and twenty-five (25) year flood plains with a citation of the source of the information;
 - (B) locations of the Critical Water Quality Zone (CWQZ) and the Water Quality Transition Zone (WQTZ);
 - (C) location of trees having a trunk with a six (6) inch diameter or a circumference of 19 inches or greater measured four and one half (4½) feet above the ground that will be removed;
 - (D) existing geologic features including but not limited to faults and fractures along waterways and other critical environmental features (CEF) as defined herein;
 - (E) location of all proposed improvements including buildings, streets, driveways, storm drainage systems, water supply and distribution systems, wastewater collection systems or wastewater treatment and disposal systems;
 - (F) location and description of all temporary erosion/sedimentation controls and permanent water quality controls, if such controls are required;
 - (G) changed drainage patterns from the property after completion of construction;
 - (H) final grades of all topography, structures, drainage ways, parking and driveways;
 - (I) location of existing and proposed drainage easements;
- (5) With respect to any fill proposed to be deposited, the identity of the source of any fill material to be deposited, and the certification of the owner of such fill that same does not contain any hazardous or toxic substances or materials.
- (6) Other information as the City may reasonably require, including but not limited to the information specified in subsection 4.107(c) below.
 - (c) For an existing legal lot to which this section applies, a variance or administrative approval pursuant to the applicable provisions of Section

4.103 is required to develop any portion of the lot that lies within the Development Free Zone.

Section 9. Subsections (a)(2) and (a)(3) of Section 4.200 are amended to provide as follows:

- (2) For intermediate waterways, the zone line shall be defined by the one hundred year flood plain, provided that it shall never be located greater than two hundred (200) feet nor less than one hundred (100) feet on each side from the center line of the waterway.
- (3) For major waterways, the zone line shall be defined by the one hundred year flood plain; provided that it shall never be located greater than four hundred (400) feet not less than two hundred (200) feet on each side from the center line of the waterway.

Section 10. Subsection (c)(6) of Section 4.200 is amended, and new subsection (c)(7) is added to Section 4.200, so that amended and added subsections (c)(6) and (c)(7) provide as follows:

(6) Structures described in Section 4.301(f) located on lots zoned and used for single family residential purposes, provided that the placement of any such allowable structure: (i) does not require the addition of any fill, (ii) is designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of flood waters, (iii) does not impede surface water runoff or drainage patterns that effect adjoining upstream or downstream properties, (iv) does not result in increased flooding on upstream or downstream properties, (v) is in compliance with all applicable provisions of this Code, and (vi) the City Council has granted a variance or the City Administrator or his/her designee has granted an administrative approval, as may be required pursuant to Section 4.103.

(7) Structures for which the City Council has granted a variance pursuant to Section 4.103.

Section 11. Subsection (d) of Section 4.201 is amended to provide as follows:

- (d) No development shall occur within the water quality transition zone unless a variance or administrative approval has been obtained pursuant to Section 4.301(k) or Section 4.103 of this Code and the property and improvements are in compliance with all other provisions of this Code.

Section 12. Subsection (c) of Section 4.300 is amended to provide as follows:

- (c) Land within the water quality transition zone, unless a variance is obtained pursuant to subsections 4.301(k) and/or Section 4.103 (**Variances**) of this Code.

Section 13. Section (c) of Section 4.301 is amended to provide as follows:

(c) In calculating projected impervious cover, 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, or any surfaces excluded from impervious cover pursuant to the terms of subsections (e) or (f) of Section 4.301, provided there is full compliance with any pollution reduction measures required pursuant such subsections. Pedestrian sidewalks located within public right-of-way and approved water quality controls/treatment devices and other drainage facilities are not impervious cover for the purposes of impervious cover calculations.

Section 14. Subsections (e) and (f) of Section 4.301 are amended to provide as follows:

- (e) Impervious cover calculations will specifically exclude the items described in this subsection that are located in the Uplands Zone or Water Quality Transition Zone on property that is zoned and used for single family residential purposes; provided, however, that the items described in this subsection shall be subject to the administrative approval standards and procedures provided in Section 4.103(g) if located in the Water Quality Transition Zone on property which is zoned and used for Single Family Residential purposes, and further provided that such items located in the Water Quality Transition Zone shall be excluded from impervious cover calculations only to the extent that there is full compliance with any required pollution reduction measure.
 - (1) The first 350 square feet of pedestrian sidewalk or walkway that is (i) not greater than 3.5 feet in width; (ii) connects to the primary single-family residential structure, and (iii) has a minimum of 1 foot of pervious cover on each side.
 - (2) Uncovered decks meeting the following standards:
 - a. The deck must be constructed on piers or posts to allow for the unabated flow or passage of water underneath the deck;
 - b. The deck floor must be constructed of slatted material that

- provides for a minimum of ¼-inch drainage spaces between the slats; and
- c. The deck must be constructed over pervious cover.
- (3) Covered decks or gazebos meeting the following specifications:
- a. The deck or gazebo must be constructed on piers or posts to allow for the substantially unobstructed flow or passage of water underneath the deck or gazebo;
- b. The deck or gazebo floor must be constructed of slatted material that provides for a minimum of ¼-inch drainage spaces between the slats;
- c. The deck or gazebo must be constructed over pervious cover; and
- d. Each wall of the deck or gazebo, excluding those sides of the structure adjoining a primary single-family residential structure, does not exceed 20-percent of the area measured from the top of the overhead cover to the top of the floor.
- (4) Water surface area of swimming pools and up to a maximum of eighteen inches (18”) of coping, hot tubs, wading ponds, fountains, bird baths, fish ponds, and other similar city-approved structures.
- (5) Rainwater harvesting facilities and structures whose sole purpose is for the collection, treatment, and/or storage of rainwater for on-site use.
- (6) Solar or wind power structures and facilities used for the primary purpose of providing on-site energy.
- (7) The first 350 square feet of an accessory building that is elevated to allow for the substantially unobstructed flow or passage of water over pervious cover underneath. Nothing in this subsection shall exempt a lot or accessory structure from the requirements of Chapter 2 of the Land Development Code, including but not limited to the limitations on the number of structures allowed per lot.
- (8) Stones, bricks or other materials used as part of an uncovered patio that are placed on pervious material and that allow for the unobstructed passage of water between the stones, bricks, and other materials, provided that the uncovered patio is not used for vehicular purposes.
- (f) Impervious cover calculations will exclude the items described in this subsection that are located in the Critical Water Quality Zone on property zoned and used for single family residential purposes; provided, however, that the items described in this subsection shall be subject to the administrative approval standards and procedures provided in Section 4.103(h) if located in the Critical Water Quality

Zone on property which is zoned and used for Single Family Residential purposes, and further provided that such items located in the Critical Water Quality Zone shall be excluded from impervious cover calculations only to the extent that there is full compliance with any required pollution reduction measure.

- (1) The first 350 square feet of pedestrian sidewalk or walkway that is (i) not greater than 3.5 feet in width; (ii) connects to the primary single-family residential structure, and (iii) has a minimum of 1 foot of pervious cover on each side.
- (2) The first 350 square feet of uncovered decks meeting the following standards:
 - a. The deck must be constructed on piers or posts to allow for the unabated flow or passage of water underneath the deck;
 - b. The deck floor must be constructed of slatted material that provides for a minimum of ¼-inch drainage spaces between the slats; and
 - c. The deck must be constructed over pervious cover.
- (3) The first 350 square feet of covered decks or gazebos meeting the following specifications:
 - a. The deck or gazebo must be constructed on piers or posts to allow for the substantially unobstructed flow or passage of water underneath the deck or gazebo;
 - b. The deck or gazebo floor must be constructed of slatted material that provides for a minimum of ¼-inch drainage spaces between the slats;
 - c. The deck or gazebo must be constructed over pervious cover; and
 - d. Each wall of the deck or gazebo, excluding those sides of the structure adjoining a primary single-family residential structure, does not exceed twenty percent (20%) of the area measured from the top of the overhead cover to the top of the floor.
- (4)
 - a. The first 350 square feet of swimming pools including up to a maximum of eighteen inches (18") of coping,
 - b. The first 150 square feet of hot tubs, wading ponds, fountains, bird baths, fish ponds, and other city-approved similar structures.
- (5) Rainwater harvesting facilities and structures whose sole purpose is for the collection, treatment, and/or storage of rainwater for on-site use.
- (6) The first 350 square feet of Solar or wind power structures and facilities

used for the primary purpose of providing on-site energy.

- (7) The first 350 square feet of an accessory building that is elevated to allow for the substantially unobstructed flow or passage of water over pervious cover underneath. However, nothing in this subsection shall exempt a lot or accessory structure from the requirements of Chapter 2 of the Land Development Code, including but not limited to the limitations on the number of structures allowed per lot.
- (8) The first 350 square feet of stones, bricks or other materials used as part of an uncovered patio that are placed on pervious material and that allow for the unobstructed passage of water between the stones, bricks, and other materials, provided that the uncovered patio is not used for vehicular purposes.

Section 15. Subsection 4.301(i) is amended to provide as follows:

(i) Variance Allowing Additional Development in the Water Quality Transition Zone. The provisions of this subsection (i) apply only to development of property not described in Section 4.107. The City Council may grant a variance allowing development of commercial, multi-family, and developments of single family residential lots comprised of more than two (2) lots in the water quality transition zone as provided in this subsection (i), and as permitted pursuant to subsection (a) of Section 4.103.

(1) A person desiring to develop in the water quality transition zone may submit an application for a variance at the time of submission of the preliminary site plan, and the application shall be acted upon by the City Council at the same time that the preliminary site plan is acted upon.

(2) The granting of a variance under this subsection shall not be construed as relieving the grantee from obtaining a watershed development permit under applicable ordinances or this Code, nor shall the granting of a variance be construed as committing the Council to approving the grantee's application for a watershed development permit.

(3) A variance may be granted only if the following standards are met:

(i) Impervious cover in the water quality transition zone shall be no more than 8% of the total portion of the lot that is in the transition zone. The impervious cover within the water quality transition zone shall be part of, and not in addition to, the total amount of impervious cover allowed on the lot as a whole.

(ii) A minimum setback of at least 75 feet shall be maintained between the critical water quality zone and developed, impervious, or pollutant source areas, or areas with disturbed vegetation or soil in the water quality transition zone. Within the aquifer recharge zone, a 100 foot minimum setback shall also be preserved between developed, impervious, or

pollutant source areas, or areas with disturbed vegetation or soil in the water quality transition zone and any identified recharge features.

(iii) Impervious cover, water quality controls, and drainage shall be designed to allow maximum infiltration of clean rainfall runoff. The applicant shall provide an increased average annual infiltration equal to 125% of the infiltration volume lost due to development within the transition zone. The increase must be shown compared to the average annual infiltration volume without the proposed water quality transition zone encroachment. Increased infiltration can be achieved using retention/re-irrigation of storm water runoff, infiltration basins, disconnected impervious cover, and/or engineered vegetative buffers. Infiltration estimates must be based either on soil data for the site published by the Soil Conservation Service (U.S. Department of Agriculture, 1974), or on field measurements of the infiltrative capacity of the surface soil, using such devices as a ring infiltrometer. Subsurface infiltration testing methods for septic systems are not acceptable.

(iv) Water quality controls shall be designed to be at least 25% more efficient at reducing the average annual pollutant load for total suspended solids, total nitrogen, total phosphorous and total organic carbon or chemical oxygen demand than water quality controls required for development in the Upland Zone.

(v) Where development encroaches into the water quality transition zone, associated turf and landscaped areas requiring fertilizer, pesticides, herbicides, insecticides, or fungicides for maintenance shall be prohibited. Disturbances of the natural vegetation and tree cover shall be prohibited except within the building footprint and the surrounding construction disturbance area. The surrounding construction disturbance area within the water quality transition zone shall be limited to a maximum radius of 20 feet from the building footprint, unless the developer can demonstrate that a greater, specified radius is necessary and would not produce greater adverse effects than a 20-foot radius.

(vi) A variance under this subsection may be granted only if the property to be developed in the water quality transition zone has not already been used for transferring development intensity credits.

(4) The conditions of a variance permitted under this subsection shall be imposed on the property as a restrictive covenant running with the land, in a form approved by the City Attorney, and recorded in the real property records of the Travis County, Texas once a final site plan is approved by the City Council.

Section 16. If any provision of this Ordinance is found by a court of competent jurisdiction to be void or unenforceable, such void or unenforceable provision shall be severed as though it never formed a part of this Ordinance, and all other provisions hereof shall remain in full force and effect.

Section 17. A caption that summarizes the purpose of this Ordinance and the penalty for violating this ordinance shall be published as provided by Tex. Loc. Gov't Code §

52.011.

PASSED AND APPROVED BY THE CITY COUNCIL OF SUNSET VALLEY,
TEXAS, on the 13th day of May, 2008.



Cat Quintanilla, Mayor

ATTEST:



City Secretary