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ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING INTERIM DEVELOPMENT REGULATIONS APPLICABLE TO CERTAIN BUILDING, DEMOLITION, AND RELOCATION PERMITS FOR SINGLE-FAMILY RESIDENTIAL STRUCTURES IN AREAS OF THE CITY WITH INADEQUATE DRAINAGE INFRASTRUCTURE; AND DECLARING AN EMERGENCY.

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

PART 1. FINDINGS.

The Council finds that:

- (1) Protection of the character of older neighborhoods in the City of Austin is in the public interest.
- (2) The character of an older neighborhood includes safe and adequate drainage facilities.
- (3) The character of older neighborhoods includes appropriate scale and bulk of structures that may be different from what is appropriate in newer subdivisions that have modern infrastructure.
- (4) The City first established drainage regulations to address fully developed conditions on March 7, 1974, with the adoption of Ordinance No. 740307-F. Subdivisions approved before March 7, 1974 were not required to construct facilities that took into account storm water flow increases resulting from future development.
- (5) Storm sewer systems in older subdivisions are currently operating near or beyond capacity.
- (6) Interim development regulations are needed to study the impact of redevelopment of older neighborhoods and the effect on the aging infrastructure.
- (7) The City has adopted a drainage utility fee to fund the construction of drainage facilities. The revenue generated from the fee is not sufficient to meet the identified need for drainage facilities. The City

1 desires to explore alternative methods, including land use regulations,
2 to address the drainage problem.

3 (8) The interim development regulations in this ordinance are limited to
4 areas of the City where the shortage of drainage facilities exists.

5 (9) Redevelopment of the area subject to this ordinance without
6 appropriate controls could result in conditions which would be
7 detrimental to the health, safety and welfare of the residents of the
8 City of Austin.

9 (10) Existing development ordinances and regulations and applicable laws
10 are inadequate to prevent new development from causing
11 overcapacity of the drainage system because such development will
12 increase impervious cover and could overwhelm the drainage
13 infrastructure and be detrimental to the public health, safety and
14 welfare in the area covered by this ordinance.

15 (11) These interim development regulations achieve the objectives of
16 protecting the infrastructure by allowing redevelopment to the extent
17 appropriate for the existing infrastructure.

18 (12) The City of Austin is committed to investigating and determining
19 appropriate redevelopment regulations within the affected area by
20 June 6, 2006.

21 (13) This ordinance is not subject to Texas Local Government Code,
22 Chapter 212, Subchapter E (*Moratorium on Property Development in*
23 *Certain Circumstances*). This ordinance is not a moratorium because
24 redevelopment is allowed under these interim development
25 regulations. If a court of competent jurisdiction determines that this
26 ordinance is subject to the above-referenced provisions, the Council
27 finds that all elements of Texas Local Government Code, Chapter
28 212, Subchapter E (*Moratorium on Property Development in Certain*
29 *Circumstances*) have been followed.

1 **PART 2. DEFINITIONS AND MEASUREMENTS.**

2 In this ordinance:

- 3 (1) DIRECTOR means the Director of the Watershed Protection and
- 4 Development Review Department.
- 5 (2) SINGLE-FAMILY STRUCTURE means a structure used for one
- 6 of the following uses, as defined in Title 25 (*Land Development*)
- 7 of the City Code:
 - 8 (a) single-family residential use;
 - 9 (b) small lot single-family residential use;
 - 10 (c) urban home special use; and
 - 11 (d) cottage special use.
- 12 (3) SQUARE FEET means square feet of “gross floor area”, as
- 13 defined in Title 25 (*Land Development*) of the City Code.

14 **PART 3. DEVELOPMENT REGULATIONS.**

15 In a subdivision within the City limits for which the original final plat was
16 approved before March 7, 1974, or on a lot that is not required by law to be
17 subdivided, applications for the following types of permits for structures must
18 comply with the following to be accepted for filing:

- 19 (1) An application for a demolition or relocation permit for a single-
- 20 family structure must be filed concurrently with an application for a
- 21 permit described in Sections (2), (3), or (4).
- 22 (2) For a building permit for a new single-family structure on a lot where
- 23 a structure has been or will be demolished or relocated, the new
- 24 structure’s size is limited to the greater of the following:
 - 25 (a) 0.4 to 1 floor-to-area ratio;
 - 26 (b) 2,500 square feet; or
 - 27 (c) 20 percent more square feet than the existing or pre-existing
 - 28 structure.

- 1 (3) For a remodel permit to increase the size of a single-family structure,
2 the structure's size after the remodel is limited to the greater of the
3 following:
4 (a) 0.4 to 1 floor-to-area ratio;
5 (b) 2,500 square feet; or
6 (c) the existing size plus 1000 square feet, if the applicant has been
7 granted a homestead exemption for the single-family structure.

8 **PART 4. WAIVER.**

- 9 (1) The Council may waive by resolution a development regulation in
10 Part 3 if the Council determines that:
11 (a) the regulation imposes undue hardship on the applicant; and
12 1. the development proposed by the applicant will not
13 adversely affect the public health, safety and welfare; or
14 2. the applicant is proposing to mitigate the effect of the
15 redevelopment by providing adequate safeguards which
16 the Council finds would adequately protect the health,
17 safety and welfare of the public;
18 (b) a development agreement permits the activity; or
19 (c) the applicant has a right acquired under Texas Local
20 Government Chapter 245 (*Issuance of Local Permits*), or has a
21 common law vested right that has been fully adjudicated by a
22 court of competent jurisdiction.
23 (2) The applicant for a waiver must prove all facts necessary to satisfy the
24 criteria in Section (1).
25 (3) An application for a waiver must be filed with the director on a form
26 provided by the director and must include the following information:
27 (a) the name and address of the applicant;
28 (b) the address and legal description of the property;
29 (c) evidence to support the criteria in Section (1); and

1 (d) other information that the director may reasonably require to
2 evaluate the waiver application.

3 (4) The director shall make a recommendation to the Council on each
4 application for a waiver. Before acting on a waiver, the Council shall
5 hold a public hearing and provide notice of the public hearing under
6 Section 25-1-132(B)(2) (*Notice of Public Hearing*) of the City Code.

7 **PART 5. NONAPPLICABILITY.**

8 The prohibitions established in this ordinance do not apply to the following:

9 (1) an application for a building permit to perform building, electrical,
10 plumbing, mechanical, sidewalk or driveway repairs or to other work
11 that does not increase the size of a single-family residential structure;
12 or

13 (2) an application for a building permit, demolition permit or remodel
14 permit that was filed before February 10, 2006.

15 **PART 6. CITY MANAGER RECOMMENDATIONS.**

16 The City Manager is directed to initiate the review and amendment of
17 existing City Code provisions relating to single-family residential uses and to
18 present Council with a recommendation of proposed amendments on or before
19 May 7, 2006.

20 **PART 7. EXPIRATION.**

21 This ordinance expires June 6, 2006 at 11:59 p.m.

22 **PART 8. SEVERABILITY.**

23 The provisions of this ordinance are severable. If a provision of this
24 ordinance or its applications to any person or circumstances is held invalid, the
25 invalidity does not affect other provisions or applications of this ordinance.

26 **PART 9. EMERGENCY DECLARED; EFFECTIVE DATE.**

27 The Council finds that the continued development of large single-family
28 uses in areas of the City for which subdivisions were approve before the City
29 required drainage facilities to account for new development would negatively
30 affect property in the area, overwhelm aging drainage infrastructure, negatively

1 affect the public health, safety and welfare of the public, and impede the Council's
2 efforts to examine the effect of certain land uses on the City's drainage
3 infrastructure. The Council further finds that this constitutes an emergency.
4 Because of the emergency, this ordinance takes effect immediately on its passage
5 for the immediate preservation of the public peace, health, and safety.

6
7 **PASSED AND APPROVED**

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9 §
10 §
11 _____, 2006 § _____
12 Will Wynn
13 Mayor

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16 **APPROVED:** _____
17 David Allan Smith
18 City Attorney

16 **ATTEST:** _____
17 Shirley A. Gentry
18 City Clerk