ORDINANCE NO. 2014-15

AN ORDINANCE OF THE CITY COUNCIL OF THE OF THE CITY OF SAN MARCOS, TEXAS AMENDING VARIOUS SECTIONS OF THE LAND DEVELOPMENT CODE AS FOLLOWS: AMENDING CHAPTER 1, ARTICLE 6 BY ESTABLISHING A TWO YEAR EXPIRATION DATE FOR PERMITS APPROVING PUBLIC IMPROVEMENTS CONSTRUCTION PLANS; AMENDING CHAPTER 1, ARTICLE 8 BY ALLOWING OCCUPANCY OF BUILDINGS PRIOR TO COMPLETION OF CERTAIN IMPROVEMENTS AND ADDING TO THE REQUIREMENTS FOR THE CITY'S ACCEPTANCE OF STORMWATER DETENTION AND WATER QUALITY FACILITIES; AMENDING CHAPTERS 5 AND 7 BY ADDING NEW DRAINAGE AND CUT AND FILL STANDARDS AND PROCEDURES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

RECITALS:

1. City staff proposed and the Planning and Zoning Commission has considered and recommended approval of revisions and amendments to the Land Development Code.

2. The City Council hereby finds and determines that the adoption of the following ordinance incorporating such revisions and amendments is in the interest of the public health, welfare and safety.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. The Land Development Code is amended as set forth below. Added text is indicated by underlining. Deleted text is indicated by strikethroughs.

SECTION 2. Chapter 1, Development Procedures, Article 6, Platting Procedures, Section 1.6.6.1, Construction Plans, Subsection (c), Responsible Official and Decision, is amended by adding a new subsection (c)(6) to read as follows:

(6) Permits approving public improvements construction plans shall expire two years from the date of approval if no progress has been made towards completion of the project as defined by the Texas Local Government Code Chapter 245.

SECTION 3. Chapter 1, Development Procedures, Article 7, Watershed Protection Plans, Section 1.7.1.4, Processing of Application and Decision, subsection (a)(1), is amended to read as follows:

(a) *Decision by Type of Watershed Protection Plan.* An application for approval of a Watershed Protection Plan, Phase 1 and Phase 2, initially shall be decided by the Engineering Director, except where the application is accompanied by any of the following requests, in which case the application shall be construed as an application for a Qualified Watershed Protection Plan, which shall be decided by the Planning and Zoning Commission following a recommendation by the City Engineer:

(1) A petition for a variance from water quality and stormwater standards under Section 1.7.1.6;

SECTION 4. Chapter 1, Development Procedures, Article 8, Site Preparation Permits, is amended by adding a new Section 1.8.1.8 to read as follows:

Section 1.8.1.8 Completion and Acceptance

(a) *Prior to Occupancy.* All improvements required by the Site Preparation Permit must be completed in accordance with applicable regulations and standards prior to the issuance of a certificate of occupancy for the last building on the site. If the construction of any improvement is to be deferred until after the issuance of a certificate of occupancy, the property owner shall first provide sufficient security to the City in the form of a cash escrow or other form acceptable to the City to ensure completion of the improvements. This section shall not be construed to authorize the issuance of a certificate of occupancy for a structure that does not comply with the requirements of any building codes adopted under Chapter 14 of the San Marcos City Code, as amended.

(b) *Prior to Final Acceptance* The property owner shall submit to the City an Engineer's Letter of Concurrence certifying that all stormwater detention and water quality management facilities required under the Site Preparation Permit are in conformance with the approved plans and specifications before the City may finally accept such facilities.

SECTION 5. Chapter 5, Environmental Regulations, Article 1, General Provisions, Section 5.1.1.1, Applicability, Exceptions, Authority and Findings, is amended to read as follows:

5.1.1.1 Applicability, Exceptions, Authority and Findings

(a) *Applicability.*

(1) The standards of this Article apply to the development of all land within the City limits and within the City's extraterritorial

jurisdiction, including, but not limited to, land located on hillsides, in Edwards Aquifer recharge, transition, and upland zones, as defined in Article 2 of this Chapter 5, in the San Marcos River Corridor, and in other river, stream or waterway corridors, as defined in Division 2 of this Article 1, ~~within the City limits and within the City's extraterritorial jurisdiction~~. Development includes clearing or rough cutting of vegetation or grading or scarifying of the top soil.

(2) The standards in this Article 1 shall be construed as supplemental to more specific water quality standards governing development of land in the Edwards Aquifer, set forth in Article 2 of this Chapter 5, and to more specific water quality standards governing development of land in the San Marcos River Corridor, set forth in Article 3 of this Chapter 5. The standards in this Article 1 also shall be construed as supplemental to standards pertaining to design, placement and construction of drainage facilities in floodplains, which standards are set forth in Article 4 of this Chapter 5, and to general drainage standards contained in Chapter 7, Article 5 of this Land Development Code. Where a standard contained or referenced in this Article conflicts with another applicable water quality or drainage facility standard, the stricter standard shall apply.

(3) The standards of this Article 1 are intended to apply with uniformity throughout the City's extraterritorial jurisdiction.

(b) *Exceptions.*

(1) Structures existing prior to the effective date of this Division may be replaced and/or enlarged up to a maximum amount equal to 50 percent of the ground floor area of the existing structure before having to comply with this Article.

(2) The clearing of underbrush and the maintenance or removal of individual trees on a parcel of land where development has already occurred; provided, however, that the clearing or removal is not for the purpose of construction.

(3) The hand clearing of underbrush and the trimming of trees necessary to allow sufficient access to the property for planning and engineering purposes.

(4) Agricultural activities or related maintenance.

(c) *Authority.* The requirements of this Article are authorized under Tex. Water Code Sections 16.316 and 26.177(b).

(d) *Findings.* The City Council makes the following findings:

(1) The City Council is a trustee of the natural environment of the San Marcos River, the Edwards Aquifer, the Balcones Escarpment, portions of the Blanco River, portions of the Texas Hill Country and the related watersheds for future generations of citizens of the City and surrounding areas.

(2) Development activities within the City and within its extraterritorial jurisdiction can result in irreparable damage to the quality of water in the San Marcos River and Edwards Aquifer.

(3) Development activities within the City and within its extraterritorial jurisdiction can damage the Balcones Escarpment and portions of the Texas Hill Country through increased erosion, alterations to natural drainage, unregulated vegetation removal, and installation of impervious cover.

(4) The San Marcos River, the Blanco River, the Edwards Aquifer, and other rivers, streams and waterways must be protected in order to preserve the health, safety and welfare of the citizens of the City and surrounding areas.

(5) The continued economic growth of the City and the surrounding area is encouraged by a pleasing natural environment, protection of watersheds and groundwater, and recreational opportunities in close proximity to the City.

(6) The City Council desires to adopt site development rules and regulations for development within the City and within its extraterritorial jurisdiction for the purpose of protecting the San Marcos River, the Blanco River, the Edwards Aquifer, rivers, streams and waterways from the effects of water quality deterioration related to development activities.

(e) *Conflicts among standards.* Whenever there is a conflict between a City of Austin manual or standard and any other technical standard included or referenced in this Chapter, the other technical standard shall prevail.

SECTION 6. Chapter 5, Environmental Regulations, Article 1, General Provisions, Section 5.1.1.2, Erosion Control Standards, is amended to read as follows:

5.1.1.2 Erosion Control Standards

(a) *Standards for Overland Flow and Natural Drainage:*

(1) Natural drainage patterns shall be preserved whenever possible. Drainage objectives can best be accomplished by leaving portions of a subdivision in an underdeveloped and natural state and located to receive runoff from the developed areas for purposes of unchannelized, overland flow.

(2) The loss of the pervious character of the soil shall be limited in order to prevent erosion and attenuate the harm of contaminants collected and transported by stormwater.

(3) Open surface drainage through grass-lined swales shall be utilized if possible.

(4) Drainage swales and other areas used for conveying stormwater runoff from developed areas shall be located to avoid sinkholes, faults and fractures to the greatest extent practicable.

(5) Construction of enclosed storm sewers and impervious channel linings shall be permitted only when the Engineering Director, on the basis of competent engineering evidence, confirms that the storm sewers or impervious linings are the only justifiable option available. These systems shall be designed to mitigate their impact on water quality through the use of approved control strategies to control sediment, neutralize contaminants and dissipate energy by the use of multiple smaller outlets, whenever practical, by locating discharges to maximize overland flow and by any other strategies that will accomplish the objectives defined and discussed in this Article.

(6) *Point discharges.* Point discharges of runoff shall be dissipated to sheet flow conditions.

(7) Necessary stormwater drainage systems and culverts shall be designed to mitigate the impact of erosion and stormwater runoff 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.

(8) Detention pond bottoms must be vegetated.

(9) Internal rock berm baffles are required in ponds.

(10) Where a separate water quality pond is required under this Article or other applicable regulations, the discharge from the pond must be under a baffle that will trap floating matter in the pond.

(11) Suitable access must be provided for maintenance of ponds and sediment traps.

(b) *Compliance with ~~City of Austin~~Criteria Manuals.* Erosion control and restoration measures shall comply with the City of San Marcos Stormwater Technical Manual, City of Austin Drainage Criteria Manual and the City of Austin Environmental Criteria Manual.

(c) *Erosion Prevention Techniques.* Erosion prevention techniques, as referenced in the City of San Marcos Stormwater Technical Manual, City of Austin Drainage Criteria Manual and the City of Austin Environmental Criteria Manual, will be utilized to attain drainage objectives for channelization and overland flow.

(d) In order to help reduce stormwater runoff, and resulting erosion, sedimentation and conveyance of nonpoint source pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes within the limits for cut and fill required in subsections (e) and (g) in order to minimize the amount of land area that is disturbed during construction and to ensure that the post construction layout is integrated into the natural environment.

(e) Cuts on a tract of land may not exceed four feet of depth, except:

(1) in the Downtown SmartCode District;

(2) in a street right-of-way;

(3) for cuts within the perimeter of a building footprint and temporary cuts necessary during construction of a building foundation within a building footprint;

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

(5) 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 water quality or buffer 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.

(f) The surface of a cut area must be restored and stabilized in accordance with the Criteria Manuals identified in 5.1.1.2(b).

(g) Fill on a tract of land may not exceed four feet in depth, except:

(1) in the Downtown SmartCode District;

(2) in a street right-of-way;

(3) under a foundation with sides perpendicular to the ground, or with pier and beam construction;

(4) for utility construction or a wastewater drain field

(5) 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 water quality zone, buffer 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.

(h) A fill area must be restored and stabilized in accordance with the Criteria Manuals identified in 5.1.1.2(b).

(i) *Variances.* The Engineering Director may approve a variance from a requirement of Section 5.1.1.2(e) (cut requirements) or Section 5.1.1.2(g) (fill requirements) for a water quality control or stormwater detention facility, or for a cut or fill of not more than eight feet if the post construction layout is integrated into the natural environment and enhanced measures identified in the

Criteria Manuals are used to manage construction and post construction stormwater runoff quality to levels that would be the same or better quality as would result from a cut or fill of not more than four feet. The City Council may approve a variance for a cut or fill greater than eight feet based on a variance petition submitted in accordance with Article 10, Division 2 of this Chapter 1. The cut and fill requirements under this section may not be modified through a petition for a Planned Development District.

SECTION 7. Chapter 5, Environmental Regulations, Article 1, General Provisions, Section 5.1.1.3, Runoff Attenuation, is amended to read as follows:

Section 5.1.1.3 Runoff Attenuation

(a) *Techniques to Minimize Erosion.* Under this Chapter, all drainage channels on the site shall be designed to minimize potential erosion. In addition to standards in Section 5.1.1.2, the following runoff attenuation strategies and techniques shall be used:

(1) All constructed and altered drainage channels shall be stabilized and vegetated immediately after final grading.

(2) Effective energy dissipation techniques must be used at inlets to and outlets from ponds. Inlets to ponds must also have sediment traps, with a wall or gabions, designed to trap the bulk of sediments and facilitate sediment removal.

(3) Velocity checks must be made on channel slopes over 2%.

(4) For channels with slopes over three percent and with non-erodible velocities (less than six feet per second), a rock pilot channel must be used to stabilize the channel bed.

(5) Sediment and litter traps are required at the discharge point of parking areas for commercial, industrial, and multifamily uses.

(6) Storm drain inlets for all development except for single-family and two-family residential development must be equipped with inlet baskets to capture litter from parking areas.

(b) *Detention Required.* Drainage facilities will be designed and constructed so that the rate of runoff at each existing discharge location from a site after construction shall be equal to or less than the runoff prior to construction for the 2, 10, 25 and 100-year storm frequencies. Rate of runoff ~~shall be computed on a 25 year storm peak flow using~~ and facility design features shall be designed by using the City of ~~Austin Drainage Criteria~~ San Marcos Stormwater Technical Manual~~, if a separate water quality pond is required for the development. If a~~

~~separate water quality pond is not required, the rate of runoff shall be computed on both a two year and a 25 year peak storm flow using the City of Austin Drainage Criteria Manual.~~ Computation of the rate of runoff shall be based on an assumption of a fully developed contributing drainage area or watershed.

(c) *Waiver of Detention.* Detention will be waived for single-family residential and small projects with less than 5,000 square feet of impervious cover, including buildings, parking lots and sidewalks. Runoff from development shall be discharged as sheet flow through grass areas to reduce peak runoff rates and provide for filtering of sediments prior to exiting property.

(d) Low Impact Development Practices as described in the City of San Marcos Stormwater Technical Manual may be used to reduce the impact of runoff on the natural and built drainage system.

SECTION 8. Chapter 5, Environmental Regulations, Article 1, General Provisions, Section 5.1.1.6, Street and Drainage Improvements, subsection (b) is amended by amending subsection (2) and adding a new subsection (3) to read as follows:

(2) Drainage easements must be at least 25 feet ~~five inches~~ in width for open drainage systems, or 15 feet in width for enclosed drainage systems.

(3) Detention and water quality ponds shall be designed to avoid the need for fencing when possible. When the need for fencing cannot be avoided, the fencing shall be designed to and utilize materials that complement any associated building structure and the project site. Ornamental fencing, including wrought iron, wooden or masonry fencing may be erected along steep side slopes or changes in grade only for safety purposes, but may not be erected around the entire pond. Chain link fencing, however, is prohibited. Detention and water quality ponds and facilities must, otherwise, comply with the design standards set forth in the City of San Marcos Stormwater Technical Manual, including requirements for location, screening and fencing not inconsistent with this Chapter and applicable ordinances.

SECTION 9. Chapter 5, Environmental Regulations, Article 2, Development Related to the Edwards Aquifer, Section 5.2.4.1, Requirements and Standards for BMP's, subsection (b), is amended to read as follows:

(b) *Installation of BMPs.* If impervious cover at the site of a development in the recharge zone equals or exceeds 15 percent on the approved Watershed Protection Plan (Phase 1, Phase 2, or Qualified) for the development, permanent BMPs must be installed in accordance with the approved Watershed Protection Plan (Phase 1, Phase 2, or Qualified) in order to mitigate the water quality impacts of the development. The permanent BMPs must limit the increase

in the total suspended solids load in drainage from the site that results from the development to no more than 20 percent above that which would occur from natural drainage from the site. *See* the City of San Marcos Stormwater Technical Manual for design guidance in coordination with the TCEQ BMP Guidance Manual.

SECTION 10. Chapter 5, Environmental Regulations, Article 3, Development Related to the San Marcos River Corridor, Section 5.3.2.2, Water Quality Standards, is amended to read as follows:

5.3.2.2 Water Quality Standards

(a) *Water Quality Zone.* The water quality zone for the waterways within the SMRC shall be defined in accordance with ~~Division 1 of this Article 3~~ Section 5.1.2.2 for a FEMA-mapped waterway, or as all land within a distance of 100 feet from a bank of the river, whichever is greater.

(b) *Buffer Zone.* The buffer zone of the waterways within the SMRC shall be defined in accordance with Division 1 of this Article 3 for a FEMA-mapped waterway, or as all land within a distance of 200 feet from a bank of the river, whichever is greater.

(c) *Impervious Cover Limitations.* Impervious cover limitations within the water quality zone of the SMRC shall be as provided in Section 5.1.2.4(a). Impervious cover limitations in areas of the SMRC outside water quality zones shall be as provided in Section 5.3.2.5

(d) *Other Land Within the Corridor.* Any development within the SMRC outside the water quality or buffer zones shall meet the requirements of Section 5.3.2.5 regarding overland flow.

(e) *Water Quality Basins.* All Stormwater runoff from the developed site shall be treated to a level equivalent to that provided by sedimentation-filtration BMPs ~~Water quality detention or sedimentation basins shall be situated and~~ constructed to capture and hold at least the first one-half inch of runoff from the contributing drainage area ~~all impervious cover~~. 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 section 5.1.1.3 (b) ~~the Austin Drainage Criteria Manual.~~

(f) *Design of Water Quality Basins.* The design of all water quality basins shall allow ~~an~~ minimum drawdown time ~~average residence time~~ of 24 hours for the first one-half inch of runoff from the contributing drainage area ~~all impervious cover~~. The design of all water quality basins shall incorporate efficient removal of contaminants, including but not limited to lead, zinc, iron, total phosphorous, total nitrogen, total suspended solids, and fecal coliform bacteria

generated as a consequence of the SMRC development for which a basin is designed as approved by the Engineering Director in accordance with the City of San Marcos Stormwater Technical Manual ~~Contaminant Removal Guidelines of the City of San Marcos.~~ These basins shall be maintained at all times in accordance with section 5.1.1.7 so that efficient removal of the contaminants is continuous.

(g) *Disposal of Contaminants.* Disposal of removed or filtered contaminants shall be as approved by the Engineering Director in accordance with the Contaminant Removal Guidelines of the City of San Marcos.

(h) *Input to and Release from Basins.* Input to and release from water quality basins shall utilize grass-lined swales and/or overland flow dispersion measures.

SECTION 11. Chapter 7, Public Facilities Standards, Article 5, Drainage, Section 7.5.1.1, System Drainage Requirements, subsection (g), is amended to read as follows:

(g) *Layout Should Use Natural Contour Lines.* In order to help reduce storm water runoff, and resulting erosion, sedimentation and conveyance of nonpoint source pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in accordance with the standards for cut and fill set forth in Section 5.1.1.2 (including the limitations on and procedures for variances under Section 5.1.1.2(i)) in order to minimize the amount of land area that is disturbed during construction.

SECTION 12. Chapter 7, Public Facilities Standards, Article 5, Drainage, Section 7.5.1.2, Velocity Attenuation and Surface Drainage Channels, subsection (b), is amended to read as follows:

(b) *Surface Drainage Channels.* Surface drainage channels shall be designed to minimize potential erosion and to increase the bottom width to flow depth ratio as follows: Channel cross sections shall be trapezoidal in configuration.

(1) Side slopes of channels shall be no steeper than four horizontal to one vertical.

~~(2) For a six-month design storm assuming wet antecedent conditions, channel bottom flow depth shall not exceed four inches and design flow velocity shall not exceed 2½ feet per second.~~

~~(3)~~(2) All constructed and altered drainage channels shall be stabilized and vegetated as soon as practicable after final grading.

~~(4)~~(3) The Director of Engineering may allow exceptions to the design flow velocities or depths in the following situations in conformance with the purpose of Section 5.3.2.5

a. On lands with greater than 15 percent slope, provided that the design flow velocity shall never be greater than three feet per second.

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

SECTION 13. In codifying the changes authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the San Marcos City Code.

SECTION 14. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 15. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 16. This ordinance will take effect after its passage, approval and adoption on second reading.

PASSED AND APPROVED on first reading on February 18, 2014.

PASSED, APPROVED AND ADOPTED on second reading on March 4, 2014.

Daniel Guerrero
Mayor

Attest:

Jamie Lee Pettijohn
City Clerk

Approved:

Michael J. Cosentino
City Attorney