

ORDINANCE NO. 2015-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GEORGETOWN, TEXAS, AMENDING PORTIONS OF CHAPTERS 2 AND 11, AND ADDING APPENDIX A TO THE UNIFIED DEVELOPMENT CODE (UDC) RELATING TO WATER QUALITY STANDARDS FOR PROPERTY LOCATED OVER THE EDWARDS AQUIFER RECHARGE ZONE (EARZ) WITHIN THE CITY LIMITS AND ITS EXTRATERRITORIAL JURISDICTION (ETJ); REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS; INCLUDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on December 20, 2013, the City Council of Georgetown, Texas, adopted Ordinance 2013-59, establishing additional requirements for property located over the Edwards Aquifer Recharge Zone ("EARZ") within the City limits and its Extraterritorial Jurisdiction ("ETJ") to safeguard the stream and spring formations of the EARZ, and protect water quality ("Water Quality Regulations"); and

WHEREAS, Ordinance 2013-59 established no-disturbance and minimal disturbance zones around Georgetown Salamander habitat sites identified by the United States Fish and Wildlife Service ("USFWS") and buffer zones around all springs and streams, as well as improved water quality by increasing the percentage of total suspended solids removal from 80% to 85%; and

WHEREAS, on February 24, 2014, the USFWS listed the Georgetown Salamander as a threatened species; and

WHEREAS, USFWS is currently in the process of developing a 4(d) special Rule that will be attached to the threatened listing and is expected to be finalized in 2015; and

WHEREAS, on December 9, 2014, the City Council of Georgetown, Texas, adopted Ordinance 2014-103 amending the Unified Development Code ("UDC") to formally codify certain water quality regulations originally established by Ordinance 2013-59 with an effective date of the effective date of the proposed 4(d) special Rule; and

WHEREAS, the USFWS and Williamson County contacted the City of Georgetown to request additional changes to the UDC to incorporate the specific standards that apply to the Georgetown Salamander habitat sites identified by the USFWS; and

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11-310  
COMMISSION

**WHEREAS**, it is the intent of the USFWS to reference the City's Water Quality Regulations in the proposed 4(d) special Rule so as to ensure that all applicable regulations are integrated in one document; and

**WHEREAS**, Chapter 83 of the Texas Parks and Wildlife Code limits government entities from imposing rules and regulations that are related to endangered species, thus limiting the City's ability to enforce the sections of the Ordinance pertaining to the identified habitat sites; and

**WHEREAS**, the City wishes to continue to protect water quality and safeguard the stream and spring formations of the EARZ within its jurisdiction in accordance with State Law; and

**WHEREAS**, the specific standards that apply to the habitat sites are to be incorporated for informational purposes only subject to federal enforcement and administration; and

**WHEREAS**, on March 11, 2003, the City Council of the City of Georgetown, Texas, adopted a set of comprehensive development regulations known as the Unified Development Code ("UDC") via Ordinance No. 2003-16 which codified various zoning and subdivision standards; and

**WHEREAS**, the City Council established a UDC Advisory Committee on November 12, 2013, to review proposed or requested amendments to the UDC other than executive amendments which are those amendments that are nondiscretionary, mandatory, or legislative revisions to address state statutes or case laws, ratify published directors determinations, incorporate recently approved Council ordinances, process City Council designated emergency items, or address revisions otherwise determined necessary by legal counsel; and

**WHEREAS**, the City Council adopted Resolution 102814-D on October 28, 2014, designating the amendment to the UDC relating to water quality regulations as a legislative revision to address state statutes; and

**WHEREAS**, by City Council declaring this amendment relating to water quality regulations as a legislative revision to address state statutes, it will be processed as an executive amendment that is not reviewed by the UDC Advisory Committee; and

**WHEREAS**, the Planning and Zoning Commission conducted a Public Hearing on the draft amendment at their January 20, 2015 regular scheduled meeting, and recommended approval of the amendment to the City Council.

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NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GEORGETOWN, TEXAS, THAT:

**SECTION 1:** The facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct, and are incorporated by reference herein and expressly made a part hereof, as if copied verbatim. The City Council hereby finds that this Ordinance implements the vision, goals, and policies of the Georgetown 2030 Comprehensive Plan and further finds that the enactment of this Ordinance is not inconsistent or in conflict with any other policies or provisions of the 2030 Comprehensive Plan.

**SECTION 2:** Ordinance 2013-59 is hereby codified and made a part of the adopted UDC.

**SECTION 3:** Portions of the UDC are hereby amended as described in **EXHIBIT A**.

**SECTION 4:** Ordinance 2013-59, Ordinance 2014-103, and other ordinances and resolutions, or parts of ordinances and resolutions, in conflict with this Ordinance are hereby repealed, and are no longer of any force and effect.

**SECTION 5:** If any provision of this Ordinance, or application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions, or application thereof, of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are hereby declared to be severable.

**SECTION 6:** The Mayor is hereby authorized to sign this Ordinance and the City Secretary to attest. This Ordinance shall become effective in accordance with the provisions of State Law and the City Charter of the City of Georgetown.

APPROVED on First Reading this 10 day of FEBRUARY, 2015.

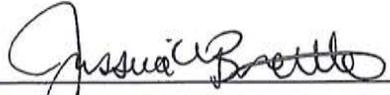
APPROVED AND ADOPTED on Second Reading this 24 day of FEBRUARY, 2015.



Dale Ross, Mayor

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ATTEST:

  
\_\_\_\_\_  
Jessica Brettle, City Secretary

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
Bridget Chapman, City Attorney

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EXHIBIT A

Chapter 2      Review Authority  
 Section 2.01    General

2.01.020 Summary of Review Authority

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Table 2.01.020: Summary of Review Authority

Procedure	Planning Director	Building Official	Dev Engineer	Urban Forester	HARC	ZBA	P&Z	City Council
***								
<b>Planning and Zoning Commission</b>								
***								
<u>Variance [water quality regulations (Section 11.07.003)]</u>			R				<DM>	A
<b>R</b> – Review or Recommendation <b>DM</b> – Decision Making Authority <b>A</b> – Appeal Authority < > - Public Hearing								

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Section 2.05      Planning & Zoning Commission (Commission or P&Z)

2.05.010 Powers and Duties

The Planning and Zoning Commission has the following powers and duties as described in this Code:

**A. Final Action**

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- Variance from the floodplain, water quality regulations (Section 11.07.003) and stormwater regulations of this Code if the Variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this ordinance would result in

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unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.

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### C. Additional Duties

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3. Hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an Administrative Official in the enforcement of Section 11.07 of this Code.

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## Chapter 11 Environmental Protection

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### Section 11.07 Water Quality Regulations for property located over the Edwards Aquifer Recharge Zone

#### 11.07.001 Applicability

- A. The regulations of this Section apply to all property within the corporate limits of the City and its extraterritorial jurisdiction ("ETJ"), to the extent allowable by State law, located within the recharge zone of the Edwards Aquifer, as that term is defined in Title 30, Texas Administrative Code §213.3 and §213.22, except as noted below. Property within the Edwards Aquifer Recharge Zone ("EARZ") is determined by the most current official map of the relevant zone located in the Texas Commission on Environmental Quality office for Region 11.
- B. Section 11.07.003, as described herein, does not apply to Occupied Sites as this term is defined in this Section. Property with an Occupied Site should be in accordance with the Federal standards as referenced in this Section.

#### 11.07.002 Definitions

The following words and phrases, when used in this Section, shall have the meanings respectively ascribed to them in this subsection, except when the context otherwise requires:

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Bank (of a stream). The ordinary high water mark of a stream, not the floodplain boundaries, as determined by the appropriate authority.

Best Management Practices (BMPs). For this Section only, BMPs has that meaning ascribed to it in Title 30, Texas Administrative Code §213.3(5), as may be amended and as further defined herein.

Development Engineer. A professional engineer licensed by the State of Texas and designated to serve in the capacity of the Development Engineer for duties specified in the City Code of Ordinances and Unified Development Code.

Geologic Assessment. A report prepared by a geologist pursuant to Title 30, Texas Administrative Code §213.5 and containing the additional information required by this Section.

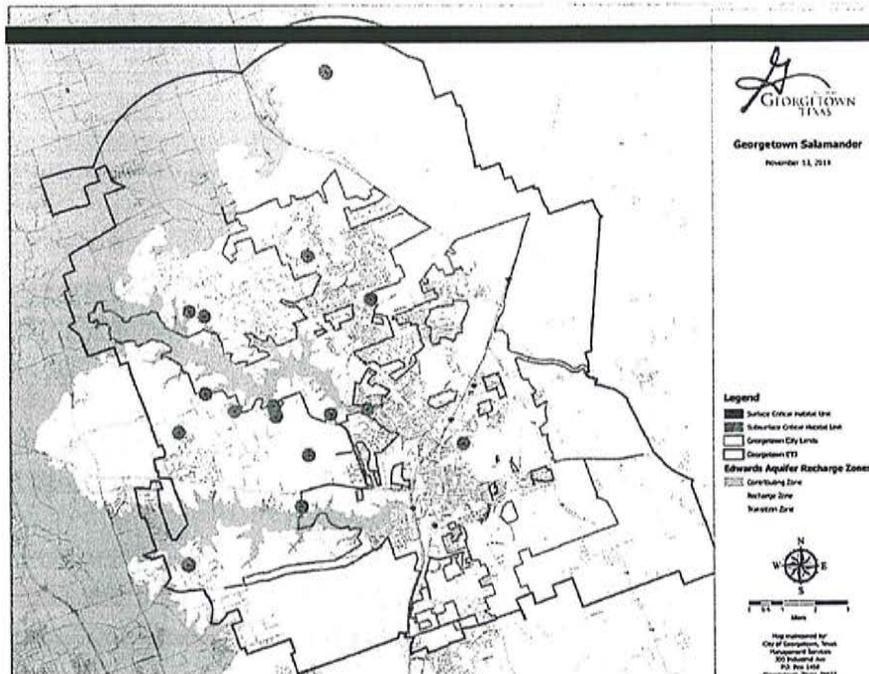
Geologist. A licensed professional geoscientist who has training and experience in ground water hydrology and related fields that enable that individual to make sound professional judgments regarding the identification of sensitive features, such as springs and streams.

Licensed Professional Geoscientist. A geoscientist who maintains a current license through the Texas Board of Professional Geoscientists in accordance with its requirements for professional practice.

Occupied Site. Any spring identified as a critical habitat unit by the United States Fish and Wildlife Service for the Georgetown Salamander (*Eurycea naufragia*), and include the following: Cobb Well, Cobb Springs, Cowen Creek Spring, Bat Well Cave, Walnut Spring, Twin Spring, Hogg Hollow Spring, Cedar Hollow Spring, Knight (Crockett Garden) Spring, Cedar Breaks Hiking Trail Spring, Water Tank Cave, Avant's (Capitol Aggregates), Buford Hollow Springs, Swinbank Spring, Shadow Canyon, San Gabriel Spring, and Garey Ranch Springs. The locations of the Occupied Sites are shown on the map incorporated below.

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**Recharge Zone.** That portion of the City and its ETJ that overlays the EARZ as defined in Title 30, Texas Administrative Code §213.3, as may be amended.

**Regulated Activity.** Shall have that meaning ascribed to it by Title 30, Texas Administrative Code §213.3(28), as may be amended.

**Spring.** Any natural setting or location where ground water flows to the surface of the earth from underground frequently enough to support spring associated vegetation such as ferns, watercress and Texas sedge.

**Stream.** A flow of surface water sufficient to produce a defined natural channel or bed. A defined natural channel or bed is an area that demonstrates clear evidence of the passage of water.

**11.07.003 Spring Buffer and Stream Buffer Protection**

**A. Spring Buffer**

1. **A Spring Buffer is established within 164 feet (or 50 meters) of the approximate center of a Spring outlet in the EARZ that is identified in a Geologic Assessment. The Spring Buffer shall not include pre-existing development.**

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2. No Regulated Activities may be conducted within the Spring Buffer except for the following and subject to the stated restrictions:
  - a. Properly permitted maintenance of existing improvements;
  - b. Scientific monitoring of water quality;
  - c. Fences above the normal high water mark of a Stream if such fences comply with applicable floodplain regulations;
  - d. Subject to Stream Buffer limitations, below, parks and open space development limited to trails, benches, trash cans and pet waste facilities; provided that trails shall not be located within the ordinary high water mark of a stream and shall be limited to trails for walking, jogging and non-motorized biking; and
  - e. Wastewater infrastructure installed roughly parallel to a stream provided that such infrastructure is installed on the side of the stream opposite the Spring and is installed no closer than 25 feet from the Bank of the Stream; provided that wastewater infrastructure shall not cross a Stream associated with a Spring within the Spring Buffer.

B. Stream Buffer

1. A Stream Buffer is established for all Streams in the EARZ that is identified in a Geologic Assessment. The boundaries of the Stream Buffer are as follows:
  - a. For Streams draining more than 64 acres and less than 320 acres, the boundaries of the Stream Buffer coincide with the boundaries of the FEMA 1% floodplain or a calculated 1% floodplain, whichever is smaller. In the absence of a FEMA floodplain and a calculated floodplain, the Stream Buffer under this subsection (a) shall be a minimum of 200 feet wide with at least 75 feet from the centerline of the Stream.

If a property owner only controls one side of a Stream, then the minimum buffer shall be 100 feet from the centerline of a Stream, or along the FEMA 1% floodplain or a calculated 1% floodplain, if available.
  - b. For Streams draining more than 320 acres but less than 640 acres, the boundaries of the Stream Buffer coincide with the boundaries of the FEMA 1% floodplain or a calculated 1% floodplain, whichever is smaller. In the absence of a FEMA floodplain and a calculated floodplain, the Stream Buffer under this subsection (b) shall be a minimum of 300 feet wide with at least 100 feet from the centerline of the stream.

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If a property owner only controls one side of a Stream, then the minimum buffer shall be 150 feet from the centerline of a Stream, or along the FEMA 1% floodplain or a calculated 1% floodplain, if available.

- c. For Streams draining 640 acres or more, the boundaries of the Stream Buffer coincide with the boundaries of the FEMA 1% floodplain or a calculated 1% floodplain, whichever is smaller. In the absence of a FEMA floodplain and a calculated floodplain, the Stream Buffer under this subsection (c) shall be a minimum of 500 feet wide with at least 200 feet from the centerline of the stream.

If a property owner only controls one side of a Stream, then the minimum buffer shall be 250 feet from the centerline of a Stream, or along the FEMA 1% floodplain or a calculated 1% floodplain, if available.

2. No Regulated Activity may be conducted within the Stream Buffer other than:

- a. Properly permitted maintenance of existing improvements;
- b. Scientific monitoring of water quality;
- c. Fences above the normal high water mark of a Stream if such fences comply with applicable floodplain regulations; and
- d. The construction of the following improvements, subject to the stated restrictions:
- i. Wastewater facilities, provided that wastewater utilities shall not be located below the normal high water elevation within the channel of a stream except at crossings of a stream;
- ii. Underground utilities other than wastewater facilities provided that such underground utilities may only be installed at Stream crossings, or at intervals no closer than 400 feet apart;
- iii. Parks and open space development limited to trails, benches, trash cans and pet waste facilities; provided that trails shall not be located within the ordinary high water mark of a Stream and shall be limited to trails for walking, jogging and non-motorized biking.
- iv. Water quality or flood control systems, provided that measures are taken in the construction of such water quality or flood control systems to minimize the impact to the Stream Buffer;

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v. Public projects that enhance or recharge the Edwards Aquifer, provide flood prevention, and similar capital improvements;

vi. Remediation of altered floodplain to its natural limits;

vii. Arterial, collector and local residential streets crossing a Stream provided that:

(A) A floodplain with a drainage area greater than 640 acres may only be crossed by arterial streets;

(B) A floodplain with a drainage area between 320 acres and 640 acres may only be crossed by arterial and collector streets;

(C) A floodplain with a drainage area up to 320 acres may be crossed by arterial, collector, or local residential streets; and

(D) A street required for a secondary access, or as required by the currently adopted fire code regulations, is exempt from this subsection.

C. All Spring and Stream Buffers, as described herein, shall be shown on all plats, Site Plan and infrastructure construction plans, to include Stormwater Permits and Building Permits when applicable.

D. Exemptions.

1. The Spring Buffer and Stream Buffer requirements of Section 11.07.003 do not apply to an Occupied Site as this term is defined in this Section. Regulated Activity on a tract of land with an Occupied Site, or within 984 feet (or 300 meters) of an Occupied Site, should be in accordance with the standards outline in UDC Appendix A.

2. In the event that the owner of property opts to request a variance from the standards outlined in UDC Appendix A to the Adaptive Management Working Group, it shall be the responsibility of the owner of property to submit to the City of Georgetown revised plans in accordance with the results of the variance request;

E. Variances

1. An owner of property of a tract of land with a Spring or Stream may request a variance from the spring and/or stream buffer requirements of this subsection to the Planning and Zoning Commission.

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2. The Planning and Zoning Commission may consider and take final action on a variance request in accordance with the powers and duties in Section 2.05.010.A.6 of this Code.

F. Appeal

Any person aggrieved by an administrative decision pertaining to this subsection may appeal to the Planning and Zoning Commission in accordance with Section 3.14 of this Code.

**11.07.004 Water Quality Best Management Practices**

A. For all Regulated Activities within the Recharge Zone, the following regulations apply:

1. Permanent structural water quality controls for a project shall remove eighty-five percent (85%) of total suspended solids for the entire project and shall be certified by a licensed professional engineer.
2. No Regulated Activity shall cause any increase in the developed flow rate for the 2-year, 3-hour storm;
3. All development projects, including, but not limited to, individual home sites, shall implement temporary BMPs to minimize sediment runoff.
4. New roadways or expansions to existing roadways that provide a capacity of 25,000 vehicles per day that are located on the Recharge Zone shall provide for spill containment as described in the Optional Enhanced Measures of the Edwards Aquifer Protection Program.
5. All permanent BMPs with an overt physical presence shall have signage that clearly identifies the purpose of the permanent BMP and the party responsible for maintenance.
6. Maintenance plans for permanent BMPs shall be recorded in the Official Records of Williamson County.

**11.07.005 Geologic Assessment**

- A. The owner of property who submits a development application for a Regulated Activity on a tract of land located over the EARZ shall submit a Geologic Assessment with the Plat application.
- B. In the event that the subject property was platted prior to December 9, 2014, or meets the Plat exceptions of this Code, a Geologic Assessment shall be submitted with the first

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required development application for the Regulated Activity. Development applications include Construction Plans, Site/Construction Plans, Stormwater Permits, and Building Permits (only single-family and two-family residential on a tract of land that meets the Plat exceptions of this Code).

C. No development application for property located over the EARZ may be approved until a Geologic Assessment has been accepted by the Development Engineer or his designee.

D. The Geologic Assessment must contain all of that information required by Title 30, Texas Administrative Code §213.5. Additionally, the Geologic Assessment must:

1. Identify all Springs and/or Streams on the subject property, or certify that no Springs or Streams exist on the subject property;

2. Describe any Spring and/or Stream on the subject property, including determining the location of any Spring outlet or Stream;

E. Subsequent applications required to develop the subject property will not require a new Geologic Assessment provided the Regulated Activity, as submitted in the application, is consistent with the accepted Geologic Assessment. Any deviations will result in the need to submit an updated Geologic Assessment prior to final approval of the application.

F. Exemptions.

1. A Geologic Assessment shall not be required for Regulated Activity that meets all of the following criteria:

a. Proposed development is single-family residential or two-family residential; and

b. Subject property is located on an individual lot that is less than 5 acres; and

c. Subdivision (to include replat) is 5 lots or less, and no more than 5 gross acres; and

d. Subject property is located within a drainage area that is less than 64 acres.

2. Regulated Activity that meet all of the criteria above must submit with the required development application a letter signed by a professional Engineer certifying the drainage area and identifying any Springs on the subject property. In the event that Springs exist, the project Engineer must identify applicable buffers on the plans.

#### **11.07.006. Acknowledgement Form**

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- A. The owner of property who submits a development application for a Regulated Activity on a tract of land located over the EARZ shall submit an Acknowledgement Form in accordance with the provisions of this subsection.
- B. The owner of property shall through a completed Acknowledgement Form, acknowledge and certify the following:
  - 1. The Regulated Activity, as proposed, complies with the Water Quality Best Management Practices regulations of this Section; and
  - 2. The subject property has an Occupied Site, is located within 984 feet of an Occupied Site, or has a Springs or Stream located more than 984 feet from an Occupied Site; and
  - 3. The Regulated Activity, as submitted, complies with the rules and regulations of this Section.
- C. A completed, signed and notarized Acknowledgement Form shall be submitted with the Plat, Construction Plan, Site/Construction Plan, Stormwater Permit, and Building Permit (single-family and two-family residential on a tract of land that is exempt from the Plat requirements of this Code) applications.
- D. The development application to the City of Georgetown shall be deemed incomplete if the Acknowledgement Form is not completed, signed and notarized.
- E. After the completeness review (Section 3.02.040) of a development application subject to subparagraph (A) above, the director or his/her designee shall provide a copy of the Acknowledgement Form to the Williamson County Conservation Foundation Adaptive Management Working Group.

**11.07.007 Water Quality Management Plan**

- A. The City shall adopt a Water Quality Management Plan for all areas within the Recharge Zone. Such management practices will include, but not be limited to, public education and outreach, hazardous waste education, integrated pest management, illicit discharge detection and elimination, construction-site storm-water runoff control, post-construction storm-water management, and pollution prevention for municipal operations including City and County maintenance activities in the ETI.
- B. The City's adopted Storm Water Management Plan, as amended, shall serve as the Water Quality Management Plan for purposes of this Section, unless stated otherwise.

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**11.07.008 Williamson County Conservation Foundation Adaptive Management Working Group**

An Adaptive Management Working Group has been established by the Williamson County Conservation Foundation to review data on a regular basis and make recommendations for specific changes in management directions related to the Federal standards for Occupied Sites. The Adaptive Management Working Group duties include, but are not limited to, development of an annual report regarding the preservation of the Georgetown Salamander, continuous monitoring of the Georgetown Salamander, assessment of research priorities, adaptive management of preservation of the Georgetown Salamander and the effectiveness of achieving the above objectives. The City Manager will appoint two City employees with appropriate technical expertise in the fields of planning and development and system engineering as members to the Adaptive Management Working Group. The efforts of the Adaptive Management Working Group will be led by the Williamson County Conservation Foundation staff.

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**Appendix A Federal Standards for Occupied Sites**

1. The standards outlined herein are provided for informational purposes only, and shall not be imposed under any authority granted by this Code. These standards are subject to Federal enforcement and administration. Chapter 15 of the UDC does not apply.
2. The following federal standards apply to Occupied Sites:
  - a. No-Disturbance Zone (Red Zone)
    - i. A no-disturbance zone is established, hereinafter referred to as the "Red Zone" in the Stream or waterway that the Spring drains directly into and shall extend 80 meters upstream and downstream from the approximate center of the Spring outlet of an Occupied Site. The Red Zone shall be bounded by the top of the Bank and shall not extend beyond any existing physical obstructions that prevent the surface movement of Georgetown salamanders, such as roadways, buildings, retaining walls, dams, and culverts.
    - ii. No Regulated Activities may be conducted within the Red Zone other than:
      1. Properly permitted maintenance of existing improvements;
      2. Scientific monitoring of water quality, population counts and related activities; and

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3. Fences above the normal high water mark of a Stream if such fences comply with applicable floodplain regulations.
2. Minimal- Disturbance Zone (Orange Zone)
    - a. A minimal-disturbance zone, hereinafter referred to as the "Orange Zone," is established for the subsurface area that drains to the Spring or Springs at an Occupied Site. Except as provided below, the Orange Zone shall consist of that area within 300 meters of the approximate center of the Spring outlet of an Occupied Site, except those areas within the Red Zone. The Orange Zone shall not include pre-existing development or areas without the potential for containing Georgetown salamander habitat as determined by the Geologic Assessment based on site specific, hydro-geologic conditions, for instance, where the Edwards Aquifer is absent.
    - b. No Regulated Activities may be conducted within the Orange Zone other than:
      1. Activities permitted in the Red Zone;
      2. Wastewater infrastructure installed roughly parallel to a Stream provided that such infrastructure is installed on the side of the Stream opposite the Occupied Site and is installed no closer than 25 feet from the Bank of the Stream;
      3. Subject to Stream Buffer limitations, below, parks and open space development limited to trails, benches, trash cans and pet waste facilities; provided that trails shall not be located within the ordinary high water mark of a Stream and shall be limited to trails for walking, jogging and non-motorized biking; and
      4. In addition to (i), (ii), and (iii) above, within the City limits, only Single-family, Detached (Residential Estate and Residential Low Density District) residential use, as defined in the City of Georgetown's Unified Development Code, will be allowed. No construction of said dwelling units shall be conducted within 80 meters of an Occupied Site. Within the ETJ, Title 30, Texas Administrative Code § 285 (c) (1) requires a minimum lot size of one acre per single family dwelling for properties within the Edwards Aquifer Recharge Zone if served by on-site sewage facilities. Developers are encouraged to avoid development within the Orange Zone whenever possible.

### 3. Variances

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- a. The Williamson County Conservation Foundation's Adaptive Management Working Group (AMWG) is authorized to hear and make recommendations regarding requests for variances from the Federal standards pertaining to Occupied Sites.
1. The AMWG shall recommend variances to the USFW from the terms of these standards pertaining to Occupied Sites, if the variance is not contrary to the objectives of these standards. Any proposed variance to the USFWS should achieve the same level or greater level of water quality benefits and conservation objectives to the Georgetown salamander. Project proponents may always work directly with USFWS to seek a permit under Section 7 or Section 10 of the Endangered Species Act for these areas.
4. The Geologic Assessment must identify all Occupied Sites, Red Zones and Orange Zones. Should the Geologic Assessment identify an Occupied Site, the Occupied Site and Red Zones and Orange Zones should be graphically delineated on all plats, Site Plan and infrastructure construction plans.

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