

**TRAVIS COUNTY  
CONSERVATION DEVELOPMENT ORDINANCE**

June 27, 2006

**10<sup>th</sup> DRAFT**

**NOTICE**

This document is a draft conceptual outline of provisions that might be included in an ordinance that would authorize conservation subdivisions in the unincorporated portions of Travis County, Texas. The provisions of this document are subject to change. The provisions and language of the document are not in legal form; the document is intended to provide guidance adequate for the preparation of an ordinance that would implement its provisions. This draft document is provided to foster public review and comment that would assist to further refine, clarify, correct or improve its provisions. Final adoption and implementation of a conservation subdivision ordinance is subject to review and approval by the Travis County Commissioners Court.

## CONSERVATION DEVELOPMENT ORDINANCE

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## **TRAVIS COUNTY**

### **Conservation Development Ordinance**

June 27, 2006

#### **I. SCOPE**

This ordinance regulates the design, processing and approval of a conservation development.

#### **II. PURPOSE AND INTENT**

1. The primary purposes for this Conservation Development Ordinance are the following:
  - a) To allow for greater flexibility and creativity in the design of developments;
  - b) To encourage the permanent preservation of open space, ranch and agricultural lands, woodlands and wildlife habitat, natural resources including aquifers, water bodies and wetlands, and historical and archeological resources; to promote interconnected green space and corridors throughout the community;
  - c) To protect community water supplies;
  - d) To minimize the amount of stormwater runoff that flows into the floodplain as a result of development in the upper reaches of a watershed by providing incentives for limiting impervious cover, keeping land in its natural state, and other measures that mitigate flooding by limiting the disruption of natural drainage patterns that result from development;
  - e) To encourage a more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
  - f) To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner;
  - g) To facilitate the provision of community services in a more economical and efficient manner;

- h) To encourage economic development that is desirable for the effected area;
- i) To foster stewardship or caring for the land and wildlife and for the neighborhoods in which we live; and
- j) To preserve the vestiges of central Texas rural and natural character remaining in Travis County.

### **III. STATUTORY AUTHORITY AND APPLICATION**

#### 1. Statutory Authority

*(To be completed by County Attorney's Office)*

#### 2. Limited Application of Ordinance

This ordinance is applicable only to the unincorporated and non-extraterritorial jurisdiction areas of Travis County.

### **IV. BY RIGHT APPROVAL**

#### 1. Other Code Requirements

An application for a Conservation Development shall meet all other applicable land development regulatory jurisdiction code provisions or requirements except as specifically waived, exempted or modified under this Conservation Development Ordinance. Should the requirements or standards of this ordinance be inconsistent or create a conflict with any other provision or standard of any other applicable land development regulatory jurisdiction code provision or requirement, the stricter provision or standard shall prevail.

*(May require a specific listing of waived, exempted or modified sections of code)*

#### 2. By Right Approval

- a) A subdivision application meeting the criteria or requirements set forth in this ordinance shall be approved as a Conservation Development by legal right. No application for subdivision approval shall be required to be a Conservation Development.
- b) Property to be subdivided and developed under this ordinance shall be required to submit applications for preliminary plan and/or final plat

approval under the provision of this ordinance and all other applicable land development regulatory jurisdiction code provisions.

## V. DEFINITIONS

For the purposes of this ordinance the following terms shall have the corresponding meaning:

1. **APPLICANT** means the owner of the tract submitted to be developed as a Conservation Development or their identified representative or agent.
2. **CANYON RIMROCK** means a rim rock that is adjacent to a waterway and has a rock substrate that:
  - a) has a gradient that exceeds sixty percent (60%) for a vertical distance of at least four (4) feet; and
  - b) is exposed for at least fifty (50) feet horizontally along the rim of the canyon.
3. **CCR's** means property owners association covenants, conditions and restrictions; deed restrictions placed on a property to control/manage its use and/or development.
4. **COMMERCIAL DEVELOPMENT** means all development other than conservation space and, single-family and duplex residential development.
5. **CONCEPTUAL LAND PLAN** means a land plan(s) that is in a preliminary form and is prepared by a qualified professional land planner, landscaped architect or civil engineer and intended primarily to identify the potential conservation space and development areas of a property based on an ecological assessment and the provisions and requirements of the Conservation Development Design Manual.
6. **CONSERVATION DEVELOPMENT (CD)** means a subdivision meeting the criteria set out in the Conservation Development Ordinance.
7. **CONSERVATION SPACE** is land to be set aside and preserved from development as residential or commercial development within a conservation development and comprised of two types of land areas, **PRIMARY** and **SECONDARY CONSERVATION AREAS**.
8. **CONTIGUOUS** means land parcels, tracts or lots of real property that are immediately adjacent or connected to one another but also includes land separated only by a local roadway, utility corridor, pipeline or localized

aquatic feature (such as a creek, pond or small lake). Contiguous land may be held in single and separate ownership or in multiple ownership. If held in multiple ownership, however, the land shall be developed according to a single plan with common authority and common responsibility.

9. **CRITICAL ENVIRONMENTAL FEATURES** are features that are of critical importance to the protection of environmental resources, and include bluffs, canyon rim rocks, caves, sinkholes, springs and wetlands.
10. **EASTERN WATERSHED** in Travis County is any watershed other than a western watershed.
11. **ECOLOGICAL ASSESSMENT** means a study and evaluation of the property submitted for subdivision approval that is conducted by qualified environmental professionals, such as ecologists, biologists, geologists, environmental planners, landscape architects and archeologists, providing the information and covering the features identified in the Conservation Development Design Manual, and summarized in a report that includes several items including a site analysis map and narrative explanation also detailed in the Conservation Development Design Manual.
12. **ECOLOGICAL ASSETS MANAGEMENT PLAN** means a written document that provides a plan to be followed in maintaining, improving and/or restoring the conservation space and its wildlife and meets the criteria and/or provisions provided in the Conservation Development Design Manual.
13. **ENDANGERED SPECIES ACT** means the Endangered Species Act of 1973 and subsequent amendments.
14. **EXECUTIVE MANAGER**, when used without a modifier, means the executive manager or executive director charged with or granted the responsibility and authority to implement the Conservation Development Ordinance on behalf of Travis County.
15. **Height**, when used in reference to a building, means the vertical distance from the average of the highest and lowest grades adjacent to the building to:
  - a) for a flat roof, the highest point of the coping;
  - b) for a mansard roof, the deck line;
  - c) for a pitched or hip roof, the average height of the highest gable; or

- d) for other roof styles, the highest point of the building.
16. **HISTORIC PRESERVATION BUFFER** means a buffer area established in order to maintain or protect an historic or culturally important site or land area, including archeological sites, from development and the unwanted impacts from adjacent human occupation or activities. The buffer is to remain undeveloped and should be maintained or restored to the maximum natural vegetative state practicable. An historic buffer commences at the most external edge or boundary of the historic structure or site and extends away from and surrounding the structure or site for the distance specified in the Conservation Development Ordinance.
17. **IMPERVIOUS COVER** is determined as proscribed in Title 30, Austin/Travis County Subdivision Regulations and includes roads, driveways, parking areas, buildings, concrete and other impermeable construction covering the natural land surface.
18. **INTEGRATED PEST MANAGEMENT PLAN** means a written management plan that identifies the integrated pest management (IPM) practices to be used on, or for a given property. IPM is a continuous system of controlling pests (weeds, diseases, insects or others) in which pests are identified, action thresholds are considered, all possible control options are evaluated and selected control(s) are implemented. Control options – which include biological, cultural, manual, mechanical and chemical methods – are used to prevent or remedy unacceptable pest activity or damage. Choice of control option(s) is based on effectiveness, environmental impact, site characteristics, worker/public health and safety, and economics. The goal of an IPM system is to manage pests and the environment to balance benefits of control, costs, public health and environmental quality. IPM takes advantage of all appropriate pest management options.
19. **LOCAL LAND DEVELOPMENT REGULATORY JURISDICTION** means the local governmental entity such as cities, counties or river authorities primarily charged with, or empowered with the authority to regulate the property's land development or storm water runoff quality.
20. **MANAGING ENTITY** means the entity, organization or individual designated, and accepting such designation, to directly or physically manage a conservation space under an ecological asset management plan.
21. **OWNER** means the owner of real property as shown by the deed records of the county in which the property is located.
22. **PARKLAND** means green or open spaces maintained primarily for human uses not included in the definition of recreation space in this ordinance and

predominantly characterized as having installed landscape with regular maintenance and irrigation systems.

23. **POST-CONSUMER** when used in reference to recycled or reclaimed waste material means a material or finished product that has been used by an end consumer (e.g. household, business, industry) for its intended purpose/function and has been discarded for disposal or recovery, being that it can no longer be used for its intended purpose. Post-consumer waste materials include items such as construction and demolition debris, materials collected through curbside and drop-off recycling programs, broken pallets from a pallet refurbishing company, discarded products (e.g. furniture, cabinetry and decking) and urban maintenance waste (e.g. leaves, grass clippings, tree trimmings). Examples of products that include post-consumer material content include ceiling tiles, carpeting, cellulose insulation made with/from old newsprint, steel rebar from crushed cars and aluminum window frames made with/from used beverage cans.
24. **PRE-CONSUMER** when used in reference to recycled or reclaimed waste material means a material or product diverted from the waste stream during the manufacturing process that has not been distributed to an end consumer. This definition excludes recovered or reutilized material such as rework, regrind or scrap capable of being reclaimed within the same process that generated it. Pre-consumer materials include items such as planer shavings, plytrim, sawdust, chips, bagasse, seed hulls and nut shells, culls, trimmings and cuttings, print overruns, over-issue publications and obsolete inventories. Examples of products that include pre-consumer material content include fly ash from coal burning plants, sheathing and board product made with/from waste agriculture straw and drywall made with/from synthetic gypsum.
25. **PREFERRED COMMERCIAL DEVELOPMENT AREA** means an area or location originally identified through a County sponsored community planning process that is intended to attract and accommodate higher or more intense levels of development and most particularly commercial development. These areas should also be seen as potential locations for the provision of centralized local government services. A preferred commercial development area must be accepted or designated as such by the Commissioners Court and may vary in size and intended levels of development from centers for neighborhood retail and/or multifamily development to regional multi-use town center locations. Preferred commercial development areas may also be limited in their designation to allowable uses.
26. **PRIMARY CONSERVATION AREAS** are comprised of setbacks, set-asides, buffers or preserve areas to be preserved generally as undeveloped



and undisturbed or minimally disturbed land under or in response to a state or federal statute or under development code provisions of a local land development regulatory jurisdiction. Such setbacks or buffers are commonly required along or around critical environmental features. Local criteria and requirements for primary conservation areas are generally found in the subdivision and/or environmental protection code provisions of local land development regulatory jurisdictions.

27. PROPERTY(S) means the real property submitted or to be submitted for subdivision approval in, or as a Conservation Development.
28. PROPERTY OWNERS ASSOCIATION or OWNERS ASSOCIATION means a not-for-profit organization established for the purpose of owning and managing the common land or amenities of a property, including a homeowners association, and whose documents have been accepted and approved by the County in conformance with the provisions of this ordinance and the Conservation Development Design Manual; the membership of an owners associations may be comprised of owners from within more than one conservation development.
29. RECREATION SPACE are land areas and/or facilities that may be used for sports and/or active recreational uses such as ball/athletic fields, playgrounds, recreational bikeways and golf courses and their immediately adjacent landscaped or maintained areas. Active recreational uses are generally identified as requiring either (1) the use of a playing field or playground; (2) the participation of group or team participants; (3) the installation of buildings or other structures; (4) the use of a human conveyance intended primarily for recreational purposes or (5) the substantial modification or grading of an area of land.
30. RESERVED USE means any land use that may not be included in a Conservation Development unless specifically allowed by a vote of the Travis County Commissioners Court (see Conservation Development Design Manual). In most cases a property owner or applicant wishing a variance or exemption for a reserved use will submit a variance request with a property's preliminary plan and/or final plat application and/or a proposed conservation development agreement. Reserved uses are restricted from a property by deed restriction, conservation easement and/or other means and include the following:
  - a) Big Box Retail – means building spaces designed for single user retail in excess of 50,000 square feet;
  - b) Manufacturing and industrial uses – include raw material extraction or, manufacturing/processing that incorporates product assembly or raw material processing or, utilizes flammable or explosive materials or,

incorporates on-site storage and distribution activities. This definition is not intended to include custom or craft manufacturing or assembly intended for local sale or distribution and utilizing hand tools or domestic mechanical equipment not exceeding two (2) horsepower or a single kiln not exceeding eight (8) kilowatts. Custom or craft manufacturing examples include ceramic studios, candle-making shops and custom jewelry manufacturing;

c) Non-Compatible Development – means development that is potentially incompatible with the purposes or intent of the Conservation Development Ordinance to preserve the rural or natural character areas of Travis County. Non-compatible development includes the following characteristics: non-commercial building height in excess of twenty-eight (28) feet and commercial building height in excess of forty (40) feet; buildings or areas with exterior lighting requirements that can not meet the Dark Skies Lighting provisions in the Conservation Development Design Manual; any establishment or business that sells alcohol for on-site consumption except as an accessory to the sale of food, any use other than by a governmental or educational entity likely to create peak noise levels that exceed seventy (70) db at the property line.

d) Noxious uses – include uses that are inappropriate or offensive for inclusion in, or proximity with residential or public use areas or activities. These uses include but are not limited to sexually oriented businesses, poultry processing, stockyards, rendering plants, kennels, auto junkyards, recycling centers, scrap or salvage services, landfills, sludge farms, asphalt/concrete plants, mines and quarries.

31. RURAL CHARACTER BUFFER means a generally undisturbed buffer area established primarily to maintain the general rural or natural appearance of a property, land area or roadway. The buffer shall remain undeveloped unless otherwise allowed and shall be maintained and restored to the maximum natural vegetative state practicable. Restoration may include landscaping with native plants and irrigation to improve screening of a conservation development from adjacent development. A rural character buffer commences at the most perimeter boundary of the property or adjacent right-of-way and extends into the property for the distance specified in the Conservation Development Ordinance.

32. SAFE HARBOR PERMIT means an agreement negotiated with the U.S. Fish and Wildlife Service which documents and protects baseline occurrences of endangered species on a property and protects the landowner from prosecution for further take above this baseline condition due to impacts associated with a specific project. For final policy and associated regulations, see *Federal Register*, June 17, 1999.

33. **SCENIC VIEW** means a view of beauty and/or picturesque quality usually containing natural scenery (such as pastoral, woodland, canyon or hill country landscapes) or, unique features or character.
34. **SCENIC VIEW PRESERVATION PLAN** means a written document that identifies key scenic viewing locations/areas and their associated scenic views and identifies those views and/or view sheds to be protected and proposes development guidelines and/or restrictions intended to assure they do not become obstructed or obscured by development; the guidelines and restrictions are to be included in covenants, conditions or restrictions imposed on a property to control its development. The plan also indicates the location of buffers or setbacks deemed necessary to preserve scenic views and view sheds, particularly from public roads, and describes management practices including tree trimming and vegetation clearing proposed to maintain the scenic views.
35. **SECONDARY CONSERVATION AREAS** are those areas to be set-aside or preserved in addition to primary conservation areas in order to meet the conservation space characteristics and requirements under the Conservation Development Ordinance and the Conservation Development Design Manual.
36. **SIGNIFICANT AND/OR MEANINGFUL** describes those features or areas identified in an ecological assessment and prioritized as most important for preservation per criteria or requirements in the Conservation Development Design Manual and should have one of the following general characteristics:
- a) Ecological features that are essential to the health of the ecosystem, including human life. Such items would include features that if lost, destroyed or negatively impacted would directly or cumulatively pose a risk to the surrounding water and air quality, and/or survival of plant, wildlife and human communities. Examples of significant and/or meaningful features/areas include functioning surface water systems and groundwater recharge features, wetlands, mature closed canopy woodlands, native grass lands, etc.
  - b) Historic and archeological sites, features or artifacts that are irreplaceable, unique and important to the character of the community. Such items include prehistoric occupation and burial sites and, pioneer home or business/activity sites. These items can help in establishing a sense of place or origin and are often seen as contributing to the well being, health and quality of life of a community.

37. SUBMITTAL means the submittal and acceptance by the County of an application for subdivision preliminary plan or plat as a conservation development.
38. TRAILS means a designated pedestrian way not generally greater than six (6) feet in width, unless otherwise approved, providing community connectivity and/or access to nature areas having minimal improvements necessary for health, safety and property protection and intended primarily for passive recreational use such as hiking or walking.
39. TRAVIS COUNTY PARKS AND NATURAL AREAS MASTER PLAN means a plan or set of community goals or guidelines adopted by Travis County to identify desirable areas or features for conservation within protected open space and establishing criteria for identifying, configuring and acquiring open space within Travis County. Examples of protected open space include land protected by conservation easement or fee simple ownership such as parkland, Balcones Canyonland Preserve land, open space parkland, conservation space, etc.
40. VIEW SHED means an area of such size, depth and/or breadth, as to afford panoramic scenic views from multiple locations along its perimeter and/or from accessible locations within its interior.
41. WESTERN WATERSHED in Travis County means the Lake Travis, Lake Austin and Town Lake watersheds and their tributaries.
42. WETLAND means a transitional land between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water, and conforms to the U.S. Army Corps of Engineers' definition.

## **VI. CONSERVATION DEVELOPMENT DESIGN**

### **1. Conservation Space**

A Conservation Development shall include a required percentage of its land to be owned by the applicant or property owners association or other legal or governmental entity approved by the Executive Manager that shall be designated as permanent conservation space, not to be further subdivided or developed, and protected through a conservation easement in a form and under such conditions as are acceptable to the county and held by the county or other legal entity recognized by the county to hold said conservation easement (see the Conservation Development Design Manual) for the purposes of this ordinance and meeting the conditions specified below:

- a) A minimum of fifty percent (50%) of the property's total acreage shall be designated as a single contiguous land area or lot of conservation space; the conservation space area or lot shall conform to the following design criteria:
- i. A conservation space area or lot shall not be less than one hundred and fifty (150) feet in width at any point, except for rural character or historic preservation buffers as allowed in subsection 2 below, and not less than one half of the conservation space shall be less than three hundred (300) feet in width at any point;
  - ii. A conservation space area or lot shall not be less than ten (10) acres in size;
  - iii. Impervious cover within or adjoining the conservation space plus a continuous or surrounding undisturbed buffer of at least twenty-five (25) feet from the impervious cover's external most edge shall not be included in calculating or meeting conservation space requirements of this ordinance, the buffer shall be protected from development that is inconsistent with the conservation space's intended uses/character;
  - iv. Areas within rights of way, access easements, utility easements or any other granted property right or dedication that allows the alteration or disturbance of land or vegetation of the property plus a continuous or surrounding undisturbed buffer of at least twenty-five (25) feet from the potential alteration or disturbance right's external most edge shall not be included in calculating or meeting conservation space requirements, the buffer shall be protected from development that is inconsistent with the conservation space's intended uses/character;
  - v. Adequate access to the conservation space by way of public roadways or usable access easements not less than twenty-five (25) feet in width will be dedicated for use by county, conservation easement holder and managing entity representatives;
  - vi. Rural character or historic preservation buffer areas connected to conservation space and having a consistent width of at least one-hundred and fifty (150) feet may be included in the conservation space acreage if it also meets the other conservation space requirements of this ordinance;

- vii. Rural character or historic preservation buffer areas disconnected from conservation space or having any portion less than one-hundred and fifty (150) feet in width may account for up to five percent (5%) of the conservation space acreage requirement of this ordinance;
  - viii. Parkland or Recreation Space acreage may be included as a portion of the Secondary Conservation Areas up to ten percent (10%) of the total preserved conservation space;
  - ix. Wastewater disposal in conservation space may only be included in secondary conservation areas that are either parkland or recreation space or rural character buffers or are in areas designated for wastewater disposal the total acreage of which shall not exceed the below indicated acreages; if wastewater disposal is included in conservation space the total wastewater disposal area shall be limited to use for wastewater disposal and/or conservation space by plat note and in the conservation easement; for purposes of this provision the calculated wastewater disposal area acreage within the conservation space shall not include a wastewater disposal area's required setbacks:
    - o For property within a western watershed up to five percent (5%) of the of the total preserved conservation space may be used for wastewater disposal;
    - o For property within a eastern watershed up to ten percent (10%) of the of the total preserved conservation space may be used for wastewater disposal;
  - x. The conservation space requirements of this section may be met or supplemented through the transfer of excess conservation space from another property as provided in Section XII of this ordinance and under such transfer requirements or guidelines as may be established by the Executive Manager.
- b) No more than fifty percent (50%) of the conservation space requirement of subsection 1(a) above shall be met by the provision of land that is mandated to be preserved as primary conservation area.
  - c) The conservation space shall be designed to include the items identified as significant and/or meaningful for preservation in an ecological assessment (see the Conservation Development Design Manual) of the land submitted with or prior to the Conservation Development application. The ecological assessment shall be used to meet the following conservation space design criteria:

- i. At least seventy-five percent (75%) of the significant and/or meaningful features or area identified in the ecological assessment shall be preserved;

## 2. Rural Character and Historic Preservation Buffers

A Conservation Development shall include buffers of undisturbed and undeveloped land with the following characteristics:

- a) Boundary roadways adjacent to the property and identified in the Capital Area Metropolitan Planning Organization (CAMPO) Transportation Plan or identified as potential arterial or collector streets by the Executive Manager shall have the following rural character buffers on the property:
  - i. at least seventy-five (75) feet for single-family or duplex dwelling unit development; and
  - ii. at least seventy-five (75) feet for commercial development;
- b) The perimeter of the property not adjacent to boundary roadways identified as potential arterial or collector streets shall have a rural character buffer of at least seventy-five (75) feet;
- c) A preserved historic or archeological site that is determined to be significant and/or meaningful shall have a historic preservation buffer of at least one hundred (100) feet; structures deemed significant and meaningful should only be relocated if under a preservation plan approved by the Executive Manager;
- d) Limited development within a rural character buffer is allowed for approved directional or project entry signs, underground utilities, trails, drainage facilities and driveways or access drives that run generally perpendicular to boundary roadways or the property's perimeter and are spaced not less than three hundred (300) feet apart;
- e) Natural vegetative cover within a rural character or historic preservation buffer shall be retained and/or restored to the maximum extent practicable and rural character buffers may be improved with the addition of native trees or other native vegetation and irrigation systems so as to obscure the property's buildings and other structures to the maximum extent practicable;
- f) Rural character or historic preservation buffers shall not be included in single-family or duplex residential lots;

- g) Wastewater disposal or irrigation is prohibited in historic preservation buffers unless approved by the Executive Manager.

### 3. Ecological Assets Management Plan

Conservation space within a Conservation Development must be managed and maintained under an ecological asset management plan that meets or exceeds the standards and criteria established in this ordinance and in the Conservation Development Design Manual.

### 4. Impervious Cover

Impervious cover within a conservation development property shall conform to the following criteria:

- a) Impervious cover existing or to be developed shall not exceed fifteen percent (15%) of the property's total acreage;
- b) For the purposes of this section impervious cover shall be calculated in conformance with Title 30, Austin/Travis County Subdivision Regulations ;
- c) For the purposes of this section trails within a conservation space that comply with the design provisions of this ordinance and the Conservation Development Design Manual shall not be considered as impervious cover;
- d) For the purposes of this section historic or archeological structures or their remnants including stone walls, shall not be considered as impervious cover;
- e) The impervious cover allowed under this section may be supplemented through the transfer of unused and excess impervious cover from another conservation development as provided in Section XII of this ordinance and under such transfer requirements or guidelines as may be established by the Executive Manager;

### 5. Resource Conservation

Development on the property shall meet the requirements for resource conservation in Section VII of this ordinance.



## 6. Conservation Roadway and Driveway Design Standards

Roadway and driveway standards provided in the Conservation Development Design Manual shall apply to applications for a Conservation Development under this ordinance that are outside of a Preferred Commercial Development Area.

## 7. Enforcement Provisions

- a) Plat notes and property owners association covenants, conditions and restrictions (CCR's) (see the Conservation Development Design Manual) shall be adopted and enforced to implement the provisions/requirements of this section of this ordinance on/for all Conservation Developments. The plat notes and CCR's shall include provisions to assure the development criteria of this Conservation Development Ordinance and the ecological values of the conservation space are maintained; the protections shall be enforceable by the owners association and/or any utility or regulatory district established for the purpose of development of the property, the conservation easement holders and other designated beneficiaries of the CCR's.
- b) The property owners association and/or any utility or regulatory district established for the purpose of development of the property shall be required to hold a license for the operation of the conservation development's drainage improvements and/or maintenance of the conservation space in accordance with provisions in the Conservation Development Agreement.

# **VII. RESOURCE CONSERVATION**

## 1. Energy Conservation

- a) All new residential construction including expansions and reconstruction and not including purely cosmetic remodeling, within the property shall be designed and built to achieve at least a fifteen percent (15%) energy use savings above the State of Texas Energy Code requirements or shall be in attainment of the minimal standards of the Environmental Protection Agency's Energy Star program.
- b) All new non-residential, commercial development construction, including expansions and reconstruction and not including purely cosmetic remodeling, within the property shall be designed and built to achieve at least a twenty percent (20%) energy use savings above the State of Texas Energy Code requirements.

- c) All new residential and commercial development construction, including expansions and reconstruction and all remodeling, within the property shall be designed, built/installed and maintained to meet the Dark Sky Lighting Standards in the Conservation Development Design Manual.

## 2. Water Conservation

The following water conservation provisions shall be incorporated into the building and landscape designs of the project:

- a) All new construction, including expansions and reconstruction and not including cosmetic remodeling, within a property shall be designed and built to achieve at least fifteen percent (15%) indoor water use savings above the Environmental Performance Standards for Plumbing Fixtures, Chapter 372 of the Texas State Health and Safety Code or the local land development regulatory jurisdiction's plumbing or fire code requirements;
- b) Plumbing fixtures and/or their installation shall meet the below conservation requirements unless otherwise approved by the Executive Manager:
  - i. Toilets shall be selected from the City of Austin's Water Conservation Program Rebate Toilets list;
  - ii. Total flow rate for multiple shower heads installed in a shower enclosures shall not exceed 2.75 gallons of water per minute;
- c) All newly installed landscape and landscape irrigation systems shall be installed to meet the criteria or requirements in the Conservation Development Design Manual;

## 3. Materials Conservation

- a) All new construction (building envelope, framing and flooring) within the property, including expansions and reconstruction and not including cosmetic remodeling, shall be constructed of at least ten percent (10%) by value of recycled or reclaimed post-consumer content material or materials manufactured from rapidly renewable resources (renewable within ten years), pre-consumer content material may be used to meet this provision but shall receive half credit for the value of the material used; additionally, at least ten percent (10%) by value of all new wood base materials shall be Forest Stewardship Council certified forest products.

- b) The builder shall employ construction practices to assure diversion of at least fifty percent (50%) of construction debris from landfills.

4. Alternative Conservation Standards

- a) New residential construction shall satisfy the energy, water and materials conservation requirements of this section if they meet standards generally established to achieve the conservation levels identified above that are issued by the following entities or programs:

- i. National Association of Home Builders (NAHB) Green Building Guidelines or one of the following NAHB approved Texas programs:
  - o Dallas Program,
  - o Houston Program,
  - o San Antonio Program;
- ii. U.S. Green Building Council, LEED Homes Program as finally adopted;
- iii. City of Austin, Austin Energy Green Building Program residential one star rating;
- iv. Green Globes Environmental Assessment and Rating System; or
- v. Green building programs approved by the Executive Manager as substantially meeting the standards of this subsection.

- b) New commercial participants shall satisfy the energy, water and materials conservation requirements of this section if they meet the standards generally established to achieve the conservation levels identified above that are issued by the following entities or programs:

- i. U.S. Green Building Council, LEED certification;
- ii. City of Austin, Austin Energy Green Building Program for Commercial Buildings.
- iii. Green building programs approved by the Executive Manager as substantially meeting the standards of this subsection.

## 5. Conservation Effort Verification and Enforcement

- a) Applicant, their assigns or successor in ownership and/or, the builder shall submit calculations, plans or other documentation acceptable to the Executive Manager showing/verifying that the building design and/or proposed installations of resource conserving materials, fixtures, appliances and equipment as well as all materials conservation activities will meet the resource conservation requirements of this ordinance; said calculations, plans or other documentation shall be sealed by a qualified engineer or architect or certified by a builder registered with the Texas Residential Construction Commission as designed to achieve the resource conservation requirements of this ordinance; all items to be constructed and/or installed to meet the calculations, plans or other documentation requirements shall be included on a builder's check list that shall be included in the builder's construction and/or sale contract representation and warranty provisions and for use in verification of installation by the final owner.
- b) During site development and building construction a copy of the builders check list shall be maintained at the development and/or building construction site; the applicant/owner will assure that the developer/builder has designated and assigned an individual to act as verification officer for the site/building to confirm receipt and installation of the item contained on the builders check list and to prepare, collect and retain all documentation necessary to verify compliance with the resource conservation provisions of this ordinance; the owner or the designated verification officer shall provide a copy of the builder's check list to the owners association, if applicable, at least fifteen (15) days prior to initiation of construction of the building; copies of calculations, plans or other documentation for any and all resource conservation activities not included in the builder's checklist will be provided to the owner/buyer and, if applicable, the owners association at least fifteen (15) days prior to initiation of construction of the building.
- c) A permanent certificate completed by the builder or registered design professional shall be posted on or in the electrical distribution panel of a building; The certificate shall list the predominant R-values of insulation installed in or on ceiling/roof, walls, foundation (slab, basement wall, crawlspace wall and /or floor) and ducts outside conditions spaces; U-factors for fenestration and the solar heat gain of coefficient (SHGC) of fenestration; and efficiency of heating, cooling and service water heating equipment; where there is more than one

value for each component, the certificate shall list the value covering the largest area.

- d) At or prior to the purchase or final acceptance of any new construction, including expansions or re-constructions or remodeling if applicable, by a final owner, the developer or builder of the new construction and the verification officer shall certify to said owner and, if applicable, related owners association in writing the construction or installation, and operation if applicable, and/or completion of all conservation measures necessary to meet the provisions of this ordinance for new construction. Certifications of commercial buildings shall be sealed by the buildings architect and/or engineer as having been constructed in compliance with the builders check list. All certifications shall have attached the original labels from all items installed/utilized to meet the resource conservation provisions of this ordinance as listed on the builder's check list referenced in item (a) of this subsection above. All other documentation of required resource conservation activities, including manifests verifying all related construction debris diversion activity, will also be attached to each certification or, in the case of activities applicable to multiple owner/buyer construction projects, provided to the owners association. The certification shall be signed and dated by the final owner as their acceptance and confirmation of the construction, installation and operability of the conservation measures. The confirmation shall include the language provisions provided in the Conservation Development Design Manual. The developer/builder or the designated verification officer shall provide a copy of the final signed certification to the owner/buyer and, if applicable, the owners association no later than fifteen (15) days from its issuance and final signing, the owners/buyers certification shall include all original attachments.
- e) At the request of Travis County the owners association shall confirm its receipt of, and make available for review all accepted builders checklists and other resource conservation activity plans, final certifications or other documents verifying resource conservation activities, including multiple owner/buyer construction debris diversion manifests; the owners association shall review all such documents upon receipt for correctness and completeness prior to accepting them as complete from the owner, builder or verification officer; all verification documents for activities not included in, or covered by a owners/buyers certification shall be reviewed by the owners association to assure compliance with the developer/builder resource conservation calculations, plans or other documentation.
- f) For new or reconstructed single-family and duplex residential buildings the owner or builder shall inform the County of the

impending sale or occupancy, which ever occurs earliest, no later than thirty (30) days prior to its occurrence; the County shall retain the right, but not be obligated, to verify the construction or installation, and operation if applicable, of any and all conservation measures proposed or planned in order to meet the provisions of this ordinance through a building inspection up to thirty (30) days following receipt of the builders notice; county may inspect any and all verification documents up to twelve months from the date of original occupancy of any said building.

- g) For new or reconstructed commercial buildings the County shall retain the right, but not be obligated, to verify the construction or installation, and operation if applicable, of any and all conservation measures proposed or planned in order to meet the provisions of this ordinance through a building and/or verification documents inspection up to twelve months from the date of original occupancy of any said building.

## **VIII. PREFERRED COMMERCIAL DEVELOPMENT AREAS**

1. The provisions of this section are only applicable to those portions of a property within a Preferred Commercial Development Area as designated in the Conservation Development Design Manual and are only applicable to properties that prohibit reserved uses unless otherwise specifically authorized by the Commissioners Court of Travis County; applicants wishing to utilize the provisions of this section shall enact CCR's and/or take other means acceptable to the Executive Manager to prohibit the use of the property for reserved uses.;
2. Notwithstanding any other provisions of this ordinance, commercial development shall be considered a Conservation Development if it is within a preferred commercial development area and meets the following provisions:
  - a) Conservation Space

The commercial portion of a Conservation Development shall include a minimum percentage of its land to be owned by the applicant or property owners association or other legal or governmental entity approved by the Executive Manager that shall be designated as permanent conservation space not to be further subdivided and protected through a conservation easement or other legally enforceable provisions in a form and under such conditions as are acceptable to the county and held and/or enforced by the county or other legal entity recognized by the county to hold/enforce said conservation easement

(see the Conservation Development Design Manual) or provisions for the purposes of this ordinance and meeting the conditions specified below:

- i. A minimum area equal to thirty percent (30%) of the property's total acreage shall be designated as a single contiguous land area or lot of conservation space;
- ii. A conservation space area or lot shall not be less than one-hundred (100) feet in width at any point;
- iii. A conservation space area or lot shall not be less than two (2) acres in size;
- iv. Impervious cover within or adjoining the conservation space plus a buffer of at least twenty-five (25) feet shall not be included in calculating or meeting conservation space requirements of this ordinance, the buffer shall be protected from development that is inconsistent with the conservation space's intended uses/character;
- v. Areas within rights of way, access easements, utility easements or any other granted property right or dedication that allows the alteration or disturbance of land or vegetation of the property plus an undisturbed buffer of at least twenty-five (25) feet shall not be included in calculating or meeting conservation space requirements, the buffer shall be protected from development that is inconsistent with the conservation space's intended uses/character;
- vi. Adequate access to the conservation space by way of public roadways or usable access easements not less than twenty (20) feet in width will be dedicated for use by county, conservation easement holder and managing entity representatives;
- vii. Historic preservation buffer areas connected to conservation space and having a consistent width of at least fifty (50) feet may be included in the conservation space acreage if it also meets the other conservation space requirements of this ordinance or the Conservation Development Design Manual;
- viii. Historic preservation buffer areas disconnected from conservation space or having any portion less than one-hundred (100) feet in width may account for up to five percent (5%) of the conservation space acreage requirement of this ordinance;

- ix. Wastewater disposal in conservation space may only be included in secondary conservation areas that are either parkland or recreation space or rural character buffers or are in areas designated for wastewater disposal the total acreage of which shall not exceed the below indicated acreages; if wastewater disposal is included in conservation space the total wastewater disposal area shall be limited to use for wastewater disposal and/or conservation space by plat note and in the conservation easement; for purposes of this provision the calculated wastewater disposal area acreage within the conservation space shall not include a wastewater disposal area's required setbacks:
    - o For property within a western watershed up to five percent (5%) of the of the total preserved conservation space may be used for wastewater disposal;
    - o For property within a eastern watershed up to ten percent (10%) of the of the total preserved conservation space may be used for wastewater disposal;
  - x. No more than fifty percent (50%) of the conservation space requirement of this subsection shall be met by the provision of land that is or would be mandated to be preserved as primary conservation area;
  - xi. The conservation space requirements of this subsection may be met or supplemented through the transfer of excess conservation space from other property as provided in Section XII of this ordinance and under such transfer requirements or guidelines as may be established by the Executive Manager, transfers may be used to meet no more than twenty-five percent (25%) of a conservation space requirement and only if the conservation space is to be provided on the property within the conservation development;
  - xii. The buffer requirements of items iv and v above in this subsection may be waived by the Executive Manager if the conservation space is provided in a commons, community plaza, park or town square within the property's preferred commercial development area.
- b) The conservation space requirements of this subsection may be met through the provision of conservation space that is parkland (such as a community plaza, square, green or park) which may be on another property within the same preferred commercial development area



approved by the Executive manager; this conservation space shall include public access;

- c) The conservation space shall be designed to include the items identified as significant and/or meaningful for preservation in an ecological assessment (see the Conservation Development Design Manual) of the property with or prior to the conservation development application. The ecological assessment shall be used to meet the following conservation space design criteria:

- i. At least forty percent (40%) of the significant and/or meaningful features or area identified on the property in the ecological assessment shall be preserved;
- ii. For conservation space provided under item 2 (b) of this subsection at least seventy-five percent (75%) of the significant and/or meaningful features or area identified on the property containing the conservation space from an ecological assessment shall be preserved;

- d) Historic Preservation Buffers

A preserved historic or archeological site that is determined to be significant and/or meaningful shall be protected by a historic preservation buffer of at least one hundred (100) feet; structures deemed significant and meaningful may be removed if under a preservation plan approved by the Executive Manager;

- e) Ecological Assets Management Plan

Conservation space within a conservation development must be managed and maintained under an ecological assets management plan that meets the requirements and/or criteria of this ordinance and meets the standards and criteria in the Conservation Development Design Manual or is otherwise acceptable to the Executive Manager.

- f) Impervious Cover

Impervious Cover existing and to be developed shall conform to the following criteria:

- i. Impervious cover existing or to be developed shall not exceed forty-five percent (45%) of the property's total acreage;

- ii. For the purposes of this section impervious cover shall be calculated in conformance with Title 30, Austin/Travis County Subdivision Regulations ;
- iii. For the purposes of this section trails within a conservation space that comply with the design provisions of this ordinance and the Conservation Development Design Manual shall not be considered as impervious cover;
- iv. For the purposes of this section historic or archeological structures or their remnants, including stone walls, shall not be considered as impervious cover;
- v. The impervious cover allowed under this section may be supplemented through the transfer of unused and excess impervious cover from another conservation development as provided in Section XII of this ordinance and under such transfer requirements or guidelines as may be established by the Executive Manager, transfers may be used to provide supplemental impervious cover of no more than five percent (5%) of the property's total acreage;

g) Resource Conservation

Development on the property shall meet the requirements for resource conservation in Section VII of this ordinance.

h) Roadway and Driveway Design Standards

A Conservation Development within a Preferred Commercial Development Areas shall meet the standard roadway and driveway standards in the Transportation Criteria Manual.

3. Enforcement Provisions

- a) Plat notes and/or property owners association covenants, conditions and restrictions (CCR's) (see Conservation Development Design Manual) shall be adopted and enforced to implement the provisions of this section of this ordinance on/for all Conservation Developments. The plat notes and CCR's shall include provisions to assure the development criteria of this Conservation Development Ordinance and the ecological values of the conservation space are maintained; the protections shall be enforceable by the owners association and/or any utility or regulatory district established for the purpose of development of the property, the conservation easement holders and other designated beneficiaries of the CCR's.

- b) The property owners association and/or any utility or regulatory district established for the purpose of development of the property shall be required to hold a license for the operation of the conservation development's drainage improvements and/or maintenance of the conservation space in accordance with provisions in the Conservation Development Agreement.

## **IX. APPLICATION PROCESS**

### **1. General**

The sequence of actions prescribed by this article is as listed below and shall be followed sequentially. The sequence of application actions or process may be combined at the request of the applicant and approval by the Executive Manager.

### **2. Pre-submittal Meeting**

An application for a Conservation Development may not be accepted for filing before the applicant meets with the Executive Manager in a pre-submittal meeting. The purpose of the pre-submittal meeting is to acquaint the county staff with the proposed development including its ecological assessment and conceptual land plan(s) and to provide the applicant with preliminary staff comments and to identify major concerns or needs for additional information. The Applicant shall prepare and submit an ecological assessment and conceptual land plan for the proposed Conservation Development that meets the provisions or requirements of the Conservation Development Design Manual to the Executive Manager fifteen (15) days prior to the pre-submittal meeting. If requested, applicant shall meet with the Executive Manager at the property for a site tour of the property prior to, or during the pre-submittal meeting.

### **3. Application**

An Applicant for a Conservation Development must submit a preliminary plan or final plat per county code and meeting the requirements of this ordinance and also containing or providing the following information all of which is subject to review and approval by the Executive Manager for completeness and sufficiency:

- a) Updated conceptual land plan for the proposed development of the Conservation Development meeting the terms or requirements identified in the Conservation Development Design Manual;

- b) List of all legal documents necessary for the proposed development including any restrictive covenants, conservation restrictions and excess or available conservation space and impervious cover transfer documents, variance or waiver or exemption requests/applications and property master deeds with an accompanying narrative explaining the document's general provisions, purpose or justification;
- c) Ecological assessment report shall include as a minimum the following items meeting the terms or requirements identified in the Conservation Development Design Manual:
  - i. A site analysis map;
  - ii. A site context map;
  - iii. The most recent available aerial photos, but not older than four years old, of the site and of the context area;
  - iv. Narrative discussion or explanations adequate to fully identify, explain and inform as to the nature of the land's natural features and the rationale for their ranking for protection within a conservation space area and meeting the terms or requirements identified in the Conservation Development Design Manual;
- d) Scenic view preservation plan;
- e) Historic Structure Relocation and Preservation Plan;
- f) Owners association documents including any architectural and landscape design standards or restrictive covenants meeting the terms or requirements identified in the Conservation Development Design Manual;
- g) Integrated pest management plan meeting the terms or requirements identified in the Conservation Development Design Manual;
- h) Draft ecological management plan meeting the terms or requirements identified in the Conservation Development Design Manual;
- i) Draft conditions, covenants and restrictions meeting the terms or requirements of this ordinance and as identified in the Conservation Development Design Manual;
- j) Draft conservation space conservation easement meeting the terms or requirements of this ordinance and as identified in the Conservation Development Design Manual;

- k) Draft Conservation Development agreement meeting the terms or requirements identified in the Conservation Development Design Manual;
- l) Variance, waiver and exemption requests/applications, including variance or exemption requests for reserved uses;
- m) All additional information required by the Executive Manager to demonstrate compliance with the Conservation Development concept;
- n) Copies of all deeds for the property;
- o) Copies of all existing easements;
- p) Tax parcel identification and flood plain information.

#### 4. Final Approval

- a) A conservation development shall be finally approved upon county acceptance and recordation in the Official Records of Travis County of the associated conservation development agreements, conservation easements, conservation space and rural character and historic preservation buffers, access and maintenance easements and, the property's conditions, covenants and restrictions.
- b) A preliminary plan and/or final plat that meets the minimum requirements of this ordinance without requiring a variance and that satisfies the Executive Manager as to the location and configuration of its conservation space and satisfies the County Attorney as to the final implementation documentation may be certified as in compliance with this ordinance and approved/accepted administratively by the Executive Manager.
- c) A preliminary plan and/or final plat that meets the requirements of this ordinance utilizing one or more administrative variances and that satisfies the Executive Manager as to the location and configuration of its conservation space and satisfies the County Attorney as to the final implementation documentation may be certified as in compliance with this ordinance by the Executive Manager and shall be deemed approved/accepted within thirty (30) days of its certification unless otherwise acted upon by the Travis County Commissioners Court.
- d) A preliminary plan and/or final plat that do not meet the provisions of subsection (b) and (c) of this subsection shall require the approval/acceptance of the Commissioners Court.

- e) Amendments to a conservation subdivision preliminary plan or final plat that could have been administratively approved/accepted under items (b) or (c) above shall be under the same review and approval processes as those respective provisions; this provision only applies to preliminary plans and final plats that were not approved/accepted by the Commissioners Court.

## **X. ADMINISTRATIVE ADJUSTMENTS AND VARIANCES**

### **1. Conservation Space Adjustments**

The design of a conservation space may be adjusted or modified by the Executive Manager without exceeding the applicant's proposed conservation space total acreage or creating an undue and quantifiable economic hardship to the applicant from development of the property as a Conservation Development for any of the following reasons:

- a) To include preferred ecological or cultural features; or
- b) To maximize the ecological value of habitat areas; or
- c) To improve the connectivity of the conservation space with current or potential conservation and open space on adjacent or contiguous land; or
- d) To assure the conservation space supports the standards and criteria in the Natural Areas Master Plan and/or the Conservation Development Design Manual; or
- e) To reduce conservation space ecological fragmentation and provide for or improve the connectivity of conservation space within the Conservation Development; or
- f) To provide for or improve the alignment and continuity of design of the conservation space; or
- g) To provide for or improve the efficiency and effectiveness of managing the conservation space;
- h) To provide for or improve the sustainability of the conservation space and protect it from undesirable or unmanaged access and use; or
- i) To adjust or correct for unintended consequences arising from conflicts between provisions of the Conservation Development

Ordinance, the Conservation Development Design Manual and/or other governmental requirements.

## 2. Administrative Variances

- a) The Executive Manager may grant administrative variances that allow the property to better meet the purposes of this ordinance after determining that:
  - i. the variance will improve the functionality of the development on the property; or
  - ii. the variance will improve the viability or sustainability of the conservation space for the purposes for which it is set aside or will better support the intent of the standards and criteria in this ordinance, the Conservation Development Design Manual and/or the Travis County Parks and Natural Areas Master Plan; or
  - iii. the variance will resolve a conflict between the provisions of this ordinance, the Conservation Development Design Manual and/or other governmental requirements; and
  - iv. the proposed conservation development is in general compliance with the provisions of this ordinance and the Executive Manager considers the granting of one or more variances as the most reasonable and practical alternative available to fulfilling the purpose and intent of this ordinance.
- b) Variances shall only be considered upon submittal to the Executive Manager of a written request that specifies the requested variance and provides an explanation of, and justification for the request; said justification shall address the criteria for granting a variance identified above under item (a) of this subsection;
- c) Considerations in granting an appropriate variance may include the following
  - i. the result of granting the variance will meet and/or advance the intent of the Conservation Development Ordinance;
  - ii. the configuration of the developments conservation space and the level to which it conforms with or supports the Travis County Parks and Natural Areas Master Plan and the Conservation Development Design Manual;

- iii. the level of the development's wastewater that is disposed of using drip irrigation;
  - iv. the development's level of commitment to apply the landscape conservation requirements in the Conservation Development Design Manual;
  - v. the level the development's parkland, recreation space, rural character buffers, roadway landscape and/or other installed landscape areas that is watered with wastewater disposal, grey water or harvested rainwater; wastewater shall be treated to the level deemed appropriate for its use by the Texas Commission on Environmental Quality (TCEQ);
  - vi. the availability of public access to conservation space;
  - vii. the level and adequacy of the ecological assets management plan, including its financial security;
  - viii. the use of design features or elements that are consistent with the characteristics or guidelines for sustainable communities, including new urbanist or traditional development concepts;
- d) The Executive Manager may only grant administrative variances as specified below, such variances shall be granted under such guidelines or conditions deemed appropriate by the Executive Manager:
- i. Conservation space may be provided in more than one contiguous land area or lot or, conservation space may be provide under a conservation easement on a developable but undeveloped parcel of land not included in the subdivision application for a conservation development;
  - ii. Storm water credit to impervious cover calculations as provided for in the Lower Colorado River Authority Highland Lakes Watershed Ordinance and related technical manual may be granted for developments utilizing porous and permeable cover, rainwater harvesting and disconnection of roof top runoff techniques;
  - iii. Historic preservation buffers may be reduced to fifty (50) feet if access is controlled by measures approved by the Executive Manager based on specific property/site considerations;
  - iv. Maximum percentage of primary conservation area that may be included as conservation space for the purposes of this ordinance



may be increased by up to twenty-five percent (25%) in order to include on-site endangered species habitat or floodplain area that if excluded could render the property infeasible for development as a conservation development;

- v. The minimum percentage of significant and meaningful features or areas required to be included in the design of a conservation space may be reduced by up to one third of the specified requirement based on specific property/site considerations;
- vi. Minimum requirements for a conservation space area/lot or buffers may be reduced based on specific property/site considerations as follows for a property that is less than twenty (20) acres in total size and is not within a preferred commercial development area:
  - o Minimum conservation space area/lot size may be waived;
  - o Requirements for conservation space width in excess of one hundred and fifty (150) feet may be waived;
- vii. Secondary conservation areas may include parkland or recreation space up to twenty-five percent (25%) of the secondary conservation area portion of the conservation space requirement if said parkland or recreation space will make substantive use of rainwater, grey water or wastewater effluent for its irrigation;
- viii. Wastewater disposal may be included in the Secondary Conservation Area, excluding parkland and recreation space, up to twenty-five percent (25%) of the of the total preserved conservation space to accommodate preservation of existing vegetation or fit topographic or soil conditions;
- ix. Cut and fill may be unlimited for water quality and detention basin construction and may be allowed up to eight (8) feet for all other applications;
- x. CEF buffer zones may be adjusted in size and configuration due to drainage and topographic considerations;
- xi. The number of dwelling units, including single-family dwelling units, served by a joint use driveway may be increased based on specific property/site considerations (see section 82.302(c)(10) of the Standards for Construction of Streets and Drainage in Subdivisions, Travis County Code);

- xii. The height limit for non-commercial buildings in the definition of non-compatible development may be increased up to no more than forty (40) feet if the building is more than two hundred (200) feet from the boundary of the property and the Executive Manager determines that it will not materially and detrimentally affect a scenic view or view shed;
- xiii. Rural character and historic preservation buffer sizing requirements may be reduced by up to forty percent (40%) if the Executive Manager determines the reduced buffers will adequately maintain the areas rural character due to the topography and/or type and level of native vegetation screening the property's development and/or the maximum percentage of conservation space that may be comprised of rural character and historic preservation buffers may be increased to a maximum of ten percent (10%) of the conservation space requirement;
- xiv. Rural character preservation buffer spacing requirements for driveways or access drives for commercial developments may be reduced if the Executive Manager determines the reduced spacing requirements if adequate provisions have been made to retain/protect rural character buffers and traffic flow will be improved without impairing the public safety;
- xv. Roadway and Driveway Design Standards for Conservation Developments in the Conservation Development Design Manual may be utilized within a Preferred Commercial Development Area if the property's civil or traffic engineer can demonstrate to the Executive Manager's satisfaction that the use of these standards will not compromise public safety, are appropriate for the proposed application and are potentially as efficient in the proposed application as the standard roadway and driveway standards;
- xvi. Accept recreation space in place of parkland for Section VIII, item 2 (b) based on specific property/site considerations;
- xvii. Waive application process submittal requirements if deemed unnecessary to meet the intent of this ordinance or are duplicative in nature;
- xviii. Accept a conservation space as having met the requirement for preservation of significant and/or meaningful features or areas identified in the ecological assessment if he finds it is in substantial compliance with the requirement and it fulfills the purpose and intent of this ordinance.

### 3. Appeal of Adjustments or Variances

The following adjustments or variances may be appealed by the applicant to the Commissioners Court:

- a) Adjustment or variance determinations by the Executive Manager under this section of the Conservation Development Ordinance;
- b) Variance requests in excess of those that may receive administrative approval under this section of the Conservation Development Ordinance.

## **XI. CONSERVATION DEVELOPMENT AGREEMENT**

1. The applicant shall enter into a conservation development agreement with the county prior to or simultaneous with the property's subdivision approval by the county, a conservation development shall not be finally approved until said agreement is signed and recorded in the Official Records of Travis County. The agreement shall commit the property to be developed only as a Conservation Development, which shall initially be subdivided under the provisions in effect at the time the agreement was executed. The agreement shall identify the area to be established as conservation space and shall provide such provisions as are required by this ordinance and/or the Conservation Development Design Manual. Said agreement shall entitle the applicant, their assigns and successor to the benefits of this ordinance and may also contain such other conditions as are mutually acceptable to the applicant and the County.
2. A property owner that is not an applicant but wishes to assure their property's future development is minimally in compliance with the provisions of this ordinance without immediately applying for subdivision approval as a Conservation Development may enter into a conservation development agreement with the county. The agreement shall commit the property to be developed only as a Conservation Development, which shall initially be subdivided under the provisions in effect at the time the agreement was executed. The agreement may identify the area to be established as conservation space and shall provide such provisions as are required by this ordinance and the Conservation Development Design Manual. Said agreement shall entitle a property owner, their assigns and successor to the benefits of this ordinance to the same degree as an approved Conservation Development is entitle to receive and may contain such other conditions as are mutually acceptable to the property owner and the County.

3. A conservation development agreement approved by the County and applicant shall run with the land, shall constitute a conservation easement in favor of the County, and shall only be amended with the approval of the County Commissioners Court; said agreement shall be recorded in the Official Records of Travis County.
4. Acceptance of a conservation agreement by the County shall entitle the property covered by the agreement to be initially subdivided as a Conservation Development according to the County code, regulations and process requirements in effect on the date the agreement is executed.
5. Property covered by, or included in a conservation development agreement shall be required to submit applications for preliminary plan and/or final plat approval under the provision of this ordinance and the applicable provisions of the Travis County Standards for Construction of Streets and Drainage in Subdivisions in order to be subdivided and developed.

## **XII. CONSERVATION DEVELOPMENT INCENTIVES**

The incentives included in subsections 1 through 7 below shall be provided to owners of approved Conservation Developments or conservation development agreement signatories as indicated and subject to any other provisions of this section and at the option of the owner/applicant; incentives included in subsections 8 and 9 may be provided at the discretion of the County and subject to any other provisions of this section and at the option of the owner/applicant:

### **1. Development Permit Fee Waivers**

The following development related permit or application fees shall be reimbursed for Conservation Developments that have received final approval or shall be waived for properties under a conservation agreement that is approved and recorded in the Official Records of Travis County:

- a) Preliminary plan application fee
- b) Long form plat application fee
- c) Short form plat application fee
- d) Construction plan review fee
- e) Driveway in right-of-way permit

f) Driveway in right-of-way permit fee

2. Application Process Assistance

The Executive Manager shall designate and assign a lead reviewer for each Conservation Development application who shall assist in facilitating the timely and consistent application of the standard of this ordinance in the application process.

3. Conservation Development Agreement Payments

a) Reserved Uses

The provisions of this subsection for payments shall only be provided to properties that prohibit reserved uses unless specifically authorized by the Commissioners Court of Travis County; applicants wishing to receive these incentives shall enact CCR provisions and/or take other means acceptable to the Executive Manager to prohibit the use of the property for reserved uses.

b) Annual Payments

i. The owner of a property under an approved Conservation Development Agreement shall receive an annual payment so long as the property remains undeveloped and under an agricultural or wildlife valuation equal to the lower of either the immediate prior year's actual property tax payments to the county and school district or the average of the property's prior three (3) years property tax payments to the county and public school district. Annual payments shall be paid by the County from funds budgeted or designated for this purpose in the operating or capital budget of the County.

c) Lump Sum Payments

i. Upon any tax rollback triggered solely by development of the property within an approved Conservation Development as provided in an approved conservation development agreement, the property's previous owner that is signatory to its conservation development agreement, or any assignee of the previous owner's right to payment, shall receive a lump sum payment equal in amount to the total roll back taxes plus any penalties or interest received by the county; or alternatively

- ii. Lump sum payments shall be paid by the County from funds budgeted or designated for this purpose in the operating or capital budget of the County.

4. Natural Conditions Assessment Rebates

- a) Reasonable costs and fees associated with conducting, preparing and reporting of an assessment of and plan for preserving and enhancing the natural condition of a property under an approved Conservation Development Agreement up to an amount not exceeding \$10,000 shall be paid or reimbursed by the County from funds budgeted or designated for this purpose in the operating or capital budget of the County.
- b) The Executive Manager shall review and affirm all costs and fees to be reimbursed as reasonable and appropriate as a condition to reimbursement by the County.
- c) Rebate payments shall be paid by the County from funds budgeted or designated for this purpose in the operating or capital budget of the County.

5. Impervious Cover and Conservation Space Transfers

- a) A property that is located in Travis County and outside of a preferred commercial development area that is approved as Conservation Development with calculated and provided conservation space in excess of that required by this ordinance may transfer credit for its excess conservation space to a second Conservation Development property in Travis County that is within the same creek watershed or contiguous to the original property or is under the preferred commercial development area provisions of this ordinance that is also within the same eastern or western watershed area; transferable conservation space credit shall not include credit for primary conservation space not used to meet the conservation space requirements of this ordinance.
- b) A property that is located in Travis County and outside of a preferred commercial development area that is approved as a Conservation Development with actual impervious cover use less than that authorized by this ordinance may transfer credit for its authorized but unused impervious cover to a second Conservation Development property in Travis County that is within the same creek watershed or contiguous to the original property or is under the preferred commercial development area provisions of this ordinance that is also within the same eastern or western watershed area.

- c) A property that is located within a preferred commercial development area and is approved as a Conservation Development with calculated and provided conservation space in excess of that required by this ordinance may transfer credit for its excess conservation space to a second property that is under the preferred commercial development area provision of this ordinance and is within the same preferred commercial development area; transferable conservation space credit shall not include credit for primary conservation space not used to meet the conservation space requirements of this ordinance.
- d) A property that is located within a preferred commercial development area and is approved as a Conservation Development with actual impervious cover use less than that authorized by this ordinance may transfer credit for its authorized but unused impervious cover to a second property that is under the preferred commercial development area provision of this ordinance and is within the same preferred commercial development area.
- e) To be valid all transfers to be made under this section shall be certified by the Executive Manager as corresponding to the County’s official calculation/record of impervious cover or conservation space available for transfer from a conservation development.
- f) The rights to transfer unused impervious cover or excess conservation space to a second property under this section shall reside with the owner/applicant that entered into the conservation development agreement with the county unless otherwise assigned by the owner/applicant.

6. Dedications and Fee-In-Lieu Exemptions

Conservation Development shall be exempt from the following dedication and/or fee-in-lieu requirements of the Travis County Standards for Construction of Streets and Drainage in Subdivisions:

- a) Parkland dedication

7. Conservation Development Marketing

A property that is an approved conservation development may include statements identifying the property as an “Approved Travis County Conservation Development” or “Travis County Approved Conservation Development” in the property’s marketing materials and advertising.

8. Open Space Management Assistance

- a) Approved Conservation Developments and properties under an accepted conservation development agreement will be eligible for assistance from the County to an amount not to exceed the actual cost for preserving and enhancing a property's natural conditions according to a plan approved by the Executive Manager.
- b) Open Space Assistance payments shall be paid by the County from funds budgeted or designated for this purpose in the operating or capital budget of the County.

9. Tax Abatement

- a) The provisions of this subsection for tax abatement shall only be provided to properties that prohibit reserved uses unless specifically authorized by the Commissioners Court of Travis County; applicants wishing to receive these incentives shall enact CCR's and/or take other means acceptable to the Executive Manager to prohibit the use of the property for reserved uses.
- b) Property that is subdivided under an approved Conservation Development that is not within a preferred commercial development area may receive tax abatement of county property taxes on structures and improvements for a period not to exceed seven (7) years if it also meets the following conditions:
  - i. The property is eligible for property tax abatement under Texas State law; and
  - ii. The property is under an abatement agreement that has been approved by the Travis County Commissioners Court; said agreement shall specify the level and term of the tax abatement; and
  - iii. The provided conservation space markedly exceeds the minimum design standards of this ordinance or is highly important to creating a continuous network of natural areas or provides for the protection of important historic and/or archeological sites; and/or
  - iv. The applicant provides public access and/or improvements to the conservation space that is acceptable to the Executive Manager; and/or
  - v. Development of the property will result in the create new jobs;



- vi. Development within the property will make substantive use of rainwater, grey water or wastewater effluent to irrigate landscaped areas; and/or
  - vii. The applicant's development will adhere to or use design features or elements that are consistent with the characteristics or guidelines for sustainable communities, including new urbanism or traditional development concepts; and/or
  - viii. The applicant has made provision for moderate income housing that is acceptable to the Executive Manager.
- c) Property that is subdivided as a Conservation Development under the Preferred Commercial Development provisions of this ordinance may receive tax abatement of county property taxes on structures and improvements for a period not to exceed seven (7) years if it also meets the following conditions:
- i. The property is eligible for property tax abatement under Texas State law; and
  - ii. The property is under an abatement agreement that is has been approved by the Travis County Commissioners Court; said agreement shall specify the level and term of the tax abatement; and
  - iii. The provided conservation space markedly exceeds the minimum design standards of this ordinance or is highly important to creating a continuous network of natural areas or provides for the protection of important historic and/or archeological sites; and/or
  - iv. The applicant provides public access and/or improvements to the conservation space that is acceptable to the Executive Manager; and/or
  - v. Development of the property will result in the create new jobs;
  - vi. Development within the property will make substantive use of rainwater, grey water or wastewater effluent to irrigate landscaped areas; and/or
  - vii. The applicant's development will use design features or elements that are consistent with the characteristics or guidelines for sustainable communities, including new urbanism or traditional development concepts; and/or

viii. The applicant has made provision for reasonably priced housing that is acceptable to the Executive Manager.

#### 10. Payment of Incentives

- a) Incentive payments or other rights and benefits to an owner or applicant, or a prorated portion thereof, may be withheld at the discretion of the Executive Manager if the terms of the applicable conservation development agreement are not met/completed by the applicant or their successor(s) or assignees and/or until an acceptable copy of the written and fully executed certification/verification of the completion, construction or installation, and operation if applicable, of all resource conservation measures necessary to meeting the provisions of this ordinance is provided to the Executive Manager or pending a resource conservation verification inspection by the Executive Manager or correction of the cause(s) for failure to pass a resource conservation verification inspection; failure of the owner or applicant to provide adequate certification or to correct the cause of inspection failure beyond twenty-four ( 24) months may cause the permanent forfeiture of the withheld payment(s);
- b) Failure by the County to make payments or rebates as stipulated in a conservation development agreement, except as the result of item (a) of this subsection above and subject to the agreement's notice and cure provisions, will entitle the property to be subdivided or re-subdivided once under the County rules, regulations and interpretations in effect on the effective date the agreement; if the property is subdivided/re-subdivided under this provision any subsequent re-subdivisions will be under the County rules, regulations and interpretations in effect on the effective date of the re-subdivision application.