



Watershed Protection Ordinance Clean-Up

Request to initiate an ordinance to amend Titles 25 and 30 to clarify portions of the code related to drainage and environment and remove conflicts and unintended consequences resulting from the 2013 Watershed Protection Ordinance

Overview

- Watershed Protection Ordinance adopted October 2013
- Amendments proposed to clarify requirements, remove conflicts and unintended consequences resulting from WPO
- Revisions to:
 - Chapters 25-8/30-5
 - Chapters 25-7/30-4
 - PUD Tier Two criterion for environmental superiority
- Includes numerous corrections and basic clarifications
 - Clarifying language
 - Codifying current practice
 - Name changes, consistent capitalization and punctuation

§25-7-32 – Erosion Hazard Zone Analysis

- Current status
 - EHZ analysis required within 100 feet of centerline
 - 100 feet from centerline not adequate for lakes and river
- Proposal
 - Require EHZ analysis within 100 feet of shoreline for lakes and 100 feet of OHW mark for Colorado River
- Advantages
 - Clarifies original intent of WPO
- Disadvantages
 - None

§25-8-42, 341, 342 – Cut and Fill for Ponds

- Current status
 - Administrative variances for cut and fill for ponds nearly always granted, but variance adds time and expense to review process
- Proposal
 - Allow cut and fill over 4 feet for ponds if necessary for appropriate functioning of pond and drainage infrastructure
- Advantages
 - Streamlines review process
- Disadvantages
 - None

§25-8-92 – CWQZ for Lake Long

- Current status
 - CWQZ for Lake Long measured from centerline of waterway
 - Offers limited to no protection for riparian zone
- Proposal
 - Add Lake Long to list of lakes with a 100-foot CWQZ established from shoreline
- Advantages
 - Provides greater protection to riparian zone
- Disadvantages
 - Triggers stricter restrictions for parkland uses near shoreline

§25-8-261 – Development in Half-CWQZ

- Current status
 - Certain development allowed in outer half of CWQZ: hard surface trails, urban agriculture, athletic fields, utilities, green water quality controls
 - Minimum distance measured from centerline of waterway; distance not adequate for lakes and river
- Proposal
 - Define minimum setback of 50 feet from shoreline for lakes and 100 feet from OHW mark for Colorado River
- Advantages
 - Provides greater protection to riparian zone; clarifies original intent of WPO
- Disadvantages
 - Triggers stricter restrictions for certain development

§25-8-1, 261(G), 364 – Floodplain Modification

- Current status
 - Floodplain modification not defined
 - Sections 261(G) and 364 reference each other; requirements unclear
- Proposal
 - Define floodplain modification
 - Clarify requirements for:
 - Development in CWQZ and floodplain
 - Development in CWQZ but outside of floodplain
 - Development in floodplain but outside of CWQZ
- Advantages
 - Clarity
- Disadvantages
 - None

§25-8-281 – CEF Buffer for Rimrock

- Current status
 - 150-foot buffer required for rimrock regardless of whether development is upslope or downslope
- Proposal
 - Reduce downslope buffer to 50 feet
- Advantages
 - Allows additional site flexibility
 - Eliminates need for administrative variances
- Disadvantages
 - Smaller setback from a protected feature

§25-8-514 – SOS Pollutants

- Current status
 - SOS regulations require no increases in loadings of 11 pollutants, including Total Organic Carbon (TOC)
 - TOC has many natural sources; poor indicator of anthropogenic pollution
 - Chemical Oxygen Demand (COD) better measure of organic matter
- Proposal
 - Remove TOC from list of pollutants
- Advantages
 - Conforms with best practice
- Disadvantages
 - None

Questions?

Contact:

Andrea Bates

Watershed Protection Department

(512) 974-2291

andrea.bates@austintexas.gov

Watershed Protection Ordinance Clean-Up: Proposed Code Changes

Description	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
			Advantages	Disadvantages
1. <i>Chapter 25-2 Subchapter B Article 2 Division 5 §2.4 PUD Tier Two Requirements</i>	One of the Tier 2 Environment/Drainage criteria includes an incorrect program name.	Change "Austin Green Builder Program" to "Austin Energy Green Building Program."	Clarity.	None.
2. <i>§25-7 and 25-8 multiple locations - Capitalization and punctuation corrections</i>	Capitalization and punctuation is not consistent in some sections of 25-7 and 25-8.	Correct capitalization and punctuation as needed.	Consistency.	None.
3. <i>§25-7 and 25-8 multiple locations - Use of "paragraph" or "subparagraph"</i>	25-7 and 25-8 include several references to "paragraph" and "subparagraph" instead of "subsection."	Replace "paragraph" and "subparagraph" with "subsection."	Consistency.	None.
4. <i>§25-7 and 25-8 multiple locations - References to the Planning and Development Review Department</i>	The Planning and Development Review Department was reorganized into two departments: Planning and Zoning and Development Services.	Replace all instances of Planning and Development Review Department with Development Services Department.	Updates code.	None.
5. <i>§25-8 multiple locations - References to the Environmental Board</i>	The Environmental Board was renamed Environmental Commission.	Replace all instances of Environmental Board with Environmental Commission.	Updates code.	None.
6. <i>§25-7-32 Director Authorized to Require Erosion Hazard Zone Analysis</i>	Requirement for Erosion Hazard Zone (EHZ) analysis within 100 feet of the centerline of the waterway does not provide adequate protection for lakes and rivers.	Clarify that EHZ analysis is required within 100 feet of the shoreline of Lake Travis, Lake Austin, Lady Bird Lake, and Lake Long, and within 100 feet of the ordinary high water (OHW) mark of the Colorado River downstream from Longhorn Dam.	Clarity. Clarifies the original intent of the Watershed Protection Ordinance (WPO).	None.
7. <i>§25-8-2 Descriptions of Regulated Areas</i>	Subsection C doesn't specify which boundary needs a 1,500-foot verification zone.	Revise language to specify that property within 1,500 feet of an Edwards Aquifer recharge zone boundary may require boundary verification.	Clarity. Codifies current practice.	None.
8. <i>§25-8-25/26/27 Redevelopment Exception in All Watersheds</i>	Requires not increasing non-compliance with Critical Environmental Feature (CEF) protections, but does not require an Environmental Resource Inventory (ERI) to identify potential CEFs.	Add requirement for Environmental Resource Inventory.	Allows greater protection for CEFs. Helps implement the existing requirement to demonstrate no increase in non-compliance for CEFs.	Additional expense/potential disincentive for redevelopment projects.

Watershed Protection Ordinance Clean-Up: Proposed Code Changes

Description	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
			Advantages	Disadvantages
9. <i>§25-8-42 Administrative Variances; §25-8-341/342 Cut Requirements, Fill Requirements</i>	Administrative variances for cut and fill for ponds are nearly always granted, but requiring a variance adds time and expense to the review process.	Allow cut and fill greater than 4 feet for ponds if the applicant demonstrates that it is necessary for appropriate functioning of the pond and associated drainage infrastructure.	Streamlines review process.	None.
10. <i>§25-8-63 Impervious Cover Calculations</i>	Applicants have asked whether the exemption for swimming pools applies to rooftop swimming pools.	Clarify that rooftop swimming pools are not exempt from impervious cover calculations.	Prevents additional ramping up of impervious cover at ground level by not allowing large portion of the building to be exempted.	Argument that impact of rooftop swimming pool is eliminated due to freeboard.
11. <i>§25-8-65 Commercial Impervious Cover</i>	Current language can be interpreted to mean there is an exemption for all commercial projects with less than 8,000 square feet of new impervious cover.	Clarify that the exemption only applies to the listed roadway improvement projects (i.e., intersection upgrades, low-water crossing upgrades, additions for bicycle lanes, and additions for mass transit stops).	Clarifies the original intent of the WPO.	None.
12. <i>§25-8-92 Critical Water Quality Zones Established</i>	Critical water quality zone (CWQZ) for Lake Long (a.k.a. "Decker Lake") is measured from the centerline of the waterway, offering limited to no protection for the riparian zone.	Add Lake Long to the list of lakes in Section D with a 100-foot CWQZ established from the shoreline.	Provides greater protection to the riparian zone along Lake Long.	Triggers stricter restrictions for parkland uses near the shoreline.
13. <i>§25-8-92 Critical Water Quality Zones Established</i>	Current language for urban watersheds can be interpreted to exempt Lady Bird Lake from having a CWQZ within the central business district.	Clarify that the exemption in Section F for the area bounded by IH-35, Riverside, Barton Springs, Lamar, & 15th does not apply to Lady Bird Lake. Lady Bird Lake <u>does</u> have a waterway setback.	Clarity. Codifies current practice.	None.
14. <i>§25-8-92 Critical Water Quality Zones Established</i>	Exemption for drainage features serving a public roadway right-of-way does not apply to similar situations along railroads.	Add exemption for railroad ROW.	Clarity. Addresses the same situation of a modified drainage feature that cannot be restored to a natural condition.	Exempts additional waterways from CWQZ protection.

Watershed Protection Ordinance Clean-Up: Proposed Code Changes

Description	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
			Advantages	Disadvantages
15. <i>§25-8-121 Environmental Resource Inventory Requirement</i>	Language in section A can be interpreted to apply to a "karst reservoir" instead of a drinking water reservoir.	Revise language to say a "within the Drinking Water Protection Zone or an area draining to a karst aquifer".	Clarity.	None.
16. <i>§25-8-121 Environmental Resource Inventory Requirement</i>	Language in section A states that an ERI is required when development is proposed in a CWQZ, water quality transition zone (WQTZ), or floodplain, but current practice is to require an ERI when a CWQZ, WQTZ, or floodplain is located anywhere on the site.	Revise language to say "on a tract containing" a WQTZ, CWQZ, or floodplain.	Codifies current practice.	None.
17. <i>§25-8-261 Critical Water Quality Zone Development</i>	Requirements for certain uses (e.g., urban agriculture, trails) to be located a minimum distance from the centerline of the waterway do not provide adequate protection for lakes and rivers.	Clarify that the minimum setback is 50 feet from the shoreline along lakes and 100 feet from the OHW mark of the Colorado River.	Clarifies the original intent of the WPO.	None.
18. <i>§25-8-261 Critical Water Quality Zone Development</i>	Current code does not prohibit water quality ponds within the 100-year floodplain outside of the CWQZ. Section H does not allow green water quality ponds within the CWQZ to be within the 100-year floodplain.	Align the two requirements: water quality ponds allowed or not allowed within the 100-year floodplain.	Consistency.	Allowing ponds within the 100-year floodplain may create maintenance concerns (e.g., potential sediment, debris, and damage in big storms).
19. <i>§25-8-261 Critical Water Quality Zone Development; §25-8-364 Floodplain Modification</i>	Floodplain modification is not defined and can be interpreted to mean any development within the floodplain.	Define floodplain modification to mean a change in the vertical or horizontal extent of the floodplain.	Clarity.	None.
20. <i>§25-8-261 Critical Water Quality Zone Development; §25-8-364 Floodplain Modification</i>	It is unclear which portions of 25-8-364 apply to detention basins, wet ponds, and other floodplain modifications in the CWQZ.	Clarify what requirements apply to detention basins and wet ponds located in the CWQZ but outside of the floodplain, and what requirements apply to all development located in the CWQZ and within the floodplain.	Clarity.	None.

Watershed Protection Ordinance Clean-Up: Proposed Code Changes

Description	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
			Advantages	Disadvantages
21. <i>§25-8-261 Critical Water Quality Zone Development; §25-8-364 Floodplain Modification</i>	Unclear what kind of floodplain modification/CWQZ development qualifies as "necessary to protect public health and safety."	Add language requiring approval from the Watershed Protection Department.	Clarity. Codifies current practice.	None.
22. <i>§25-8-261 Critical Water Quality Zone Development</i>	Subsection J is not necessary, because there is not a critical water quality zone on the described waterways per 25-8-92.	Delete subsection J.	Clarity.	None.
23. <i>§25-8-262 Critical Water Quality Zone Street Crossings</i>	Proposed change to allow 900 foot spacing for crossings of minor waterways outside of the drinking water protection zone was inadvertently dropped in later draft of the WPO.	Change 1,000 feet to 900 feet for subsection B(3)(a).	Clarifies the original intent of the WPO.	None.
24. <i>§25-8-281 Critical Environmental Features</i>	Current code requires a 150-foot setback from rimrock, regardless of whether the development is upstream or downstream of the feature.	Consider a minimum downslope setback of 50 feet.	Allows additional site flexibility and prevents unnecessary variances.	Smaller setback from a protected feature.
25. <i>§25-8-341 Cut Requirements</i>	Current practice of not applying cut requirements to swimming pools is not codified.	Clarify that cut requirements do not apply to swimming pools.	Clarity. Codifies current practice.	None.
26. <i>§25-8-341/342 Cut Requirements; Fill Requirements</i>	Cut and fill adjacent to a building foundation that is necessary for structural stability is not exempted from limits.	Allow exemption immediately adjacent to building for cut/fill associated with structural stability.	Eliminate commission variance for necessary cut/fill adjacent to a building foundation.	None.
27. <i>§25-8-361 Wastewater Restrictions</i>	Unclear whether "wastewater treatment by land application" includes septic systems or application of reclaimed water.	Clarify whether this code section applies to some or all septic systems and to application of reclaimed water.	Clarity.	None.
28. <i>§25-8-361 Wastewater Restrictions</i>	Language prohibiting wastewater application on "trunk of surveyed trees" may be applied to additional trees not required to be surveyed by code.	Change "trunk of surveyed trees" to "trunk of trees required to be surveyed."	Clarity.	None.

Watershed Protection Ordinance Clean-Up: Proposed Code Changes

Description	Current Status/Concern	Proposed Improvement	Anticipated Impacts	
			Advantages	Disadvantages
29. <i>§25-8-453 Uplands Zone</i>	List of uses allowed within the 40 percent buffer do not include water quality controls as allowed in 25-8-213(C)(3).	Add a reference to 25-8-213(C)(3), allowing water quality controls under certain conditions.	Clarity.	None.
30. <i>§25-8-514 Pollution Prevention Required</i>	List of pollutants includes Total Organic Carbon (TOC), which has many natural sources and is not necessarily an indicator of anthropogenic pollution in stormwater. Additionally, TOC, like Chemical Oxygen Demand (COD), measures the organic matter in water, but COD is a better indicator of the impact on dissolved oxygen. COD is thus more relevant to receiving water quality.	Remove Total Organic Carbon from the list of pollutants.	Conform with best practice.	None.
31. <i>§25-8-606 Report</i>	The Urban Forestry Board was merged with the Environmental Commission, but the City Arborist's reporting requirements were not updated.	Delete the monthly reporting requirement that previously applied to the Urban Forestry Board.	Clarity.	None.
32. <i>§25-8-643 Land Use Commission Variance and §25-8-644 Appeal</i>	The Urban Forestry Board was merged with the Environmental Commission, but the process for land use commission variances and appeals was not updated.	Clarify that land use commission variances and appeals must be reviewed by the Environmental Commission.	Clarity.	None.
33. <i>§25-8-696 Notice</i>	Includes reference to Texas Parks & Wildlife Department (TPWD) Natural Heritage Program, which no longer exists.	Generalize reference to TPWD or the appropriate state agency.	Clarity.	None.
34. <i>§25-8-696 Notice</i>	Unclear whether staff can ask applicant to contact the required agencies (as opposed to staff making the notification).	Clarify that the applicant needs to make the notification.	Clarity. Codifies current practice.	None.